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COMMISSION ON WARTIME RELOCATION
AND INTERNMENT OF CIVILIANS
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COMMISSION ON WARTIME RELOCATION

AND

INTERNMENT OF CIVILIANS

Tuesday, July 14, 1981

Senate Caucus Room
Russell Building
Washington, D.C.

Hearing convened at 9:10 a.m.

Before:

JOAN Z. BERNSTEIN, Esq., CHAIR

CONGRESSMAN DANIEL E. LUNGREN, VICE CHAIR

HON. EDWARD W. BROOKE

HON. ARTHUR J. GOLDBERG

FATHER ISHMAEL V. GROMOFF

HON. WILLIAM M. MARUTANI

HON. HUGH B. MITCHELL

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P R O C E E D I N G S

CHAIR BERNSTEIN: Will the Commission and our guests please take their seats so we can begin. I see we have a number of participants who are already here and I would like not to keep them waiting.

I would like to welcome all of you to the Commission's first hearing. We begin today our inquiry into the causes and consequences of the evacuation and internment of thousands of U.S. citizens and resident aliens during World War II.

Pursuant to Executive Order 9066 issued by President Roosevelt of February 19, 1942, 120,000 persons of Japanese ancestry were forced to leave their west coast homes, jobs and properties. For several years, these American citizens and permanent resident aliens, including the aged, infirm and children, were confined in camps surrounded by barbed wire and armed guards. They were detained without trial, without hearings of any kind. Military necessity was said to require this unprecedented treatment of a national group.

The evacuation and internment of over a thousand Aleuts living in the Aleutian and Pribilof Islands had an equally devastating impact for those who endured the experience. Evidence submitted to Congress indicates that these native Americans were interned under very difficult conditions.

There has never been official inquiry into this sad episode in American history. Many Americans have forgotten and many young Americans have never learned about the relocation and internment of U.S. citizens and residents.

In 1980, the 96th Congress, with broad bipartisan support, enacted and President Carter signed into law Public Law 96-317 establishing this Commission. Our legislative mandate is a broad one, we are to: (1) review the facts and circumstances surrounding Executive Order No. 9066, and the impact of that order on American citizens and permanent resident aliens; (2) review directives of United States military forces that required the relocation and internment of Aleut civilians; and (3) recommend appropriate remedies.

The 97th Congress, again with wide bipartisan support, passed legislation which increased the number of members of the Commission from seven to nine. President Reagan signed this measure into law on February 10th of this year.

As President Gerald Ford said when he rescinded Executive Order 9066 exactly 34 years after it was issued, and I quote, "An honest reckoning, however, must include a recognition of our national mistakes, as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them."

In my judgment, the Commission's inquiry is critically important for a number of reasons. First, it will serve a

significant educational function. Democracy depends on a citizenry aware of its history, a citizenry informed of the actions its government has taken, no matter how mistaken or wrong those actions may have been. The Commission will give the American people the opportunity to learn what happened to the Japanese-Americans and Aleuts during World War II and why/ who made the decisions to relocate and intern them; how that treatment was justified, and how those justifications withstand scrutiny today.

Second, the Commission's inquiry is vitally important to the rule of law. We need to understand how it was that the nation's military and civilian leaders decided to evacuate and confine 120,000 people for no reason other than their ancestry. We need to examine what protections the law offered, and whether those protections need to be expanded. Only with this knowledge can we devise ways to strengthen protections for our citizens and to prevent similar events in the future.

Third, the Commission will provide a forum for discussion on the difficult but crucial issue of redress. Congress has specifically charged the Commission with making recommendations about what actions the government should now take, how it should redress the grievances of those mistreated years ago. There are no easy answers, but the Commission will explore all possible remedies. This country's honor and commitment to civil liberties demand nothing less.

You are all aware, I am sure, of the strong support the creation of this Commission has received from both Houses of Congress, the Carter and Reagan Administrations, and the public, including the Japanese American and Aleut communities.

Public hearings held across the nation will constitute the heart of our effort. We will receive testimony from those who were ousted from their homes and interned, from their descendants, from government officials, from historians and lawyers, from all who can shed light on the events and their consequences.

I would like to introduce my fellow Commissioners. Pursuant to the authorizing legislation, each Commissioner has been selected personally by the President of the United States, the Speaker of the House of Representatives, or the President Pro Tempore of the Senate. They are all individuals of great stature, persons who have earned solid reputations by their contributions to the public. I am honored to serve on the Commission with, on my left, Ambassador Arthur Goldberg, former Supreme Court Justice and Ambassador to the United Nations; Judge William Marutani, who sits on the Pennsylvania Court of Common Pleas;
Dr. Arthur Flemming, who is not with us this morning, who is Chairman of the U.S. Commission on Civil Rights; Senator Edward Brooke, who is next to the last at the end, former Senator from Massachusetts; Father Robert Drinan, who is

not with us this morning, former Congressman from Massachusetts; Senator Hugh Mitchell, former Senator from the State of Washington on my left; and Father I. V. Gromoff of Unalaska in the Aleutian Islands. Father Gromoff is a priest in the Russian Orthodox Church; and last, and I left him until last, Congressman Lungren, because I will ask you to proceed. I have completed the introduction. I am honored to serve on the Commission with Congressman Dan Lungren of California, who also serves as the Vice Chair of this Commission.

Congressman Lungren has an opening statement which he will deliver now.

STATEMENT OF CONGRESSMAN DANIEL LUNGREN

VICE CHAIR LUNGREN: Thank you, Madam Chair. I would like to join you in welcoming all of you to this initial hearing in this important task we find ourselves in.

Unfortunately, some people are already viewing the mere existence of this Commission as yet another exercise in American "guilt tripping," yet another attempt to besmirch the honor of our nation by focusing on a unique and very unfortunate epoch in our history, or yet another attempt to prove that we are barbaric violators of our own constitutional guarantees. But such critics, I would suggest, are wrong. This Commission is nothing of the sort.

Indeed the mere existence of this Commission is testimony, I believe, to the fact that American people are eminently fair minded and just.

It truly is the mark of an honest, just and noble people that we can recognize the error of our World War II evacuation and internment of Japanese American citizens and Aleuts, and that we are intent on learning from our error and avoiding any future such infringement of constitutionally protected liberty.

While conditions in the World War II relocation camps may have been similar in comparison with the camps operated by the totalitarian regimes of Europe and other parts of the world, Americans are inquiring into this denial of constitutional rights which occurred. And I believe this is testimony to our goodness as a people. We did not see Stalin voluntarily inquiring into the condition in his murderous Gulags. We do not see the Soviets today inquiring into the barbaric treatment accorded Jews, Christians, and other minorities. We do not see Castro voluntarily inquiring into the conditions afforded the subjects of his island prison camp.

We have been established by the United States Congress to inquire into the decisions and mistakes of our past and that is, I believe, important evidence of the essential integrity of our system.

As we seek to flesh out and officially acknowledge the historical record of these events, it is important to to consider that the internment of our fellow Americans of Japanese ancestry and Aleuts did not take place in a vacuum, but occurred in the context of highly charged events. The bulk of the U.S. Navy had been destroyed by a surprise attack. The U.S. Army was soundly routed and beat a hasty retreat from the Philippines. The West Coast of our country braced for attack, so they thought, with nightly "blackouts" and a variety of other civil defense measures.

Recently I looked back over a copy of the Los Angeles Times of 1942 wherein the editors railed over fears of a Japanese "fifth column" in the United States.

As this illustrates, unfortunately, even Americans of otherwise good will were caught up in a frenzy of fear and suspicion.

Such facts certainly do not ameliorate the culpability of our government in this action, but they do effectively create -- as some have called it -- an insurance policy so that such actions are not repeated in a future crisis.

I originally supported the establishment of this Commission so that Americans would be made aware of and/or would remember this black mark in our nation's history. Growing up in Southern California I first remember hearing of the internment as a young boy and I recall my amazement that such

a thing could have happened. I grew up in a community where Japanese-American citizens were known as solid, productive citizens. I was astonished to learn that just a few decades earlier they had been removed from the general society and deprived of liberty and property.

I believe that one of the most fruitful aspects of the formation of this Commission is that it will serve to educate the American people as to the dangers of unbridled public rage indiscriminately directed at a sector of our population. It is, of course, just as important that this Commission publicly investigate our government's removal of the Aleuts from their homes in Alaska. That story must also be told and told as a result of an official inquiry.

I would extend a note of caution, however, to those who would believe that the sole or primary purpose of this Commission is to merely determine the extent to which some form of monetary restitution is to be provided to individuals by the government. The issue of transferring taxpayers' dollars in reparation to those interned is one over which there appears to be a split of opinion even within the Japanese American community itself. Moreover, several of the proposals in this regard which have already been aired publicly have suggested an expenditure well into the billions of dollars. I feel compelled to state that in my judgment Congress would have never chartered this Commission if it felt that restitution were to be accepted by the Commission as a foregone conclusion.

The question of monetary recompense is rather just one issue, among many, to be considered. If it does develop that some form of restitution is fully warranted, then we should, and I certainly will consider such proposals on their merits.

In the spirit of honest inquiry, I would like to welcome the distinguished individuals who have assembled to testify before this Commission and look forward to a fruitful series of public hearings here in Washington and around the country on this important national and historical issue.

I thank you, Madam Chairman.

CHAIR BERNSTEIN: Thank you Congressman Lungren.

In the spirit of making everybody on this Commission work, I've asked Senator Brooke, who is a former member of the Senate, to introduce our distinguished present members of the Senate who will appear before us.

Senator Brooke.

COMMISSIONER BROOKE: Thank you Madam Chairman.

Madam Chairman, I think it is only fitting and right that we have the lead-off witnesses for this historical hearing, the two distinguished senators from the State of Hawaii. I have had the honor and the privilege of serving with both of them in the United States Senate. They are highly respected, they have been champions, not only of the State of Hawaii, but for Japanese Americans and for all Americans, and we are very grateful and very pleased to have Senator Daniel Inouye, with whom I served in World War II in the 442nd right next

to each other in Italy, and Senator Spark Matsunaga, who has also been a very great champion in the United States Senate. We welcome them and look forward to hearing their testimony at this time.

Senator Inouye.

STATEMENT OF SENATOR DANIEL INOUYE

SENATOR INOUYE: Thank you very much, Senator Brooke. Madam Chairperson, Gentlemen, it is my privilege and pleasure to appear before the Commission this morning. These public hearings begin a most crucial phase of your work, and your work is of great importance to this nation.

It will be up to this Commission to investigate and issue a report on the involuntary uprooting and internment of 120,000 men, women and children during World War II. While constitutional questions are ultimately the province of the United States Supreme Court, your report should set forth for all Americans your conclusions as to the actions of our Government. If this is in an act that we can take pride in as a nation, then that is what you should tell us. If it is instead an act which dishonors this nation, then that is what you must tell us. And if you find that the act caused wrongful injury, you should recommend to Congress what remedies, if any, are appropriate.

Also among your tasks will be to educate the people of this nation about this experience. During my work on the creation of this Commission, a gentleman wrote me to suggest

that it was inappropriate for the Congress of the United States to be considering reparations for soldiers of the Japanese Army held prisoners of war when United States servicemen suffered so much in Japanese prison camps in the Pacific. While you and I may know much about these events, I would suggest to you that this gentleman is not alone in his feelings. He either doesn't know, or has forgotten about what took place over 40 years ago in this nation of our own people.

As one of the sponsors of the legislation which established this Commission, I'm not without my own feelings about this matter. During World War II, many of the members of the regiment in which I served came from these camps. While men fought, and many of them died fighting for our country, their families were still held behind barbed wire fences in the United States. My support of the Commission is in part a repayment of the debt which is owed for the sacrifice of these men.

I know there are many expectations about what this Commission will recommend. I have never, and will not now, express my own thoughts about what should be your recommendation to Congress. This I can tell you. If nothing else results from this inquiry other than a reasoned, thorough and accurate record of what took place and why it took place, you will have done your job well.

It may come to pass that a budget-conscious Congress will find itself unable to provide any significant form of monetary redress or reparations. But no Congress, President or Supreme Court can ever underwrite the words of your report. So make them good words, even great words. Make your report one that will awaken this experience enough to haunt the conscience of this nation, haunt it so that we will never forget that we are capable of such an act, so that we will never again be able to do this to ourselves, and so that we will be able to pay tribute to the suffering, the fortitude, the patriotism, and ultimately the triumph of the people who lived through this experience.

Madam Chairperson, and Gentlemen, I wish you the very best as you begin your work. Than you very much.

CHAIR BERNSTEIN: Thank you very much, Senator.

STATEMENT OF SENATOR SPARK MATSUNAGA

SENATOR MATSUNAGA: Madam Chairman, distinguished members of the Commission, as one of the co-sponsors of the companion Senate bill to the House bill which became Public Law 96-317 which established this commission, I am very pleased to appear before you today as you launch your historic investigation of the relocation and internment of the innocent civilians during World War II.

No branch of the Federal Government has ever undertaken a comprehensive study of actions taken under Executive

Order 9066 which was issued in February of 1942 by President Franklin Delano Roosevelt. And in the opinion of the members of the Japanese American community, such a study is long overdue.

No doubt members of the Commission and those in the audience will recall vividly the atmosphere which prevailed in this country immediately following the attack on Pearl Harbor on December 7, 1941. Rumors were rampant that the Japanese war planes had been spotted off the west coast, and erroneous reports of follow-up attacks on the U.S. mainland abounded. A great wave of fear and hysteria swept the United States, particularly along the west coast.

Some two months after the attack on Pearl Harbor, President Roosevelt issued Executive Order 9066. The Executive Order gave to the Secretary of War the authority to designate so-called military areas and to exclude any or all persons from such areas. Penalties for the violation of the military restrictions were subsequently established by Congress in Public Law 77-503, enacted in March of 1942.

Also in March the military commander of the Western District issued four public proclamations establishing restricted zones in eight western states, instituting a curfew applicable to enemy aliens and "persons of Japanese ancestry," and restricting the travel of Americans of Japanese ancestry and alien residents.

The first civilian exclusion order was issued by the Western District Commander on March 24, 1942 and marked the beginning of the relocation and internment of some 120,000 Japanese Americans and their parents from the West Coast. It is significant to note that the military commander of the then Territory of Hawaii, which had actually suffered an enemy attack, did not believe that it was necessary to evacuate all Japanese Americans in Hawaii although it is true that a number of leaders of the Japanese American community in Hawaii were sent to detention camps in the continental United States.

Moreover, no military commander felt it was necessary to evacuate from any area of the country all Americans of German or Italian ancestry although the United States was also at ware with Germany and Italy.

FBI Director J. Edgar Hoover, who could hardly be accused of being soft on suspected seditionists, opposed the evacuation of Japanese Americans from the west coast, pointing out that the FBI, and other law enforcement agencies, were capable of apprehending any suspected saboteurs or enemy agents. Unlike Hawaii, martial law was never declared in the western states, and the courts and law enforcement agencies remained in full operation.

However, the Americans of Japanese ancestry were denied their day in court. In fact, of the approximately 120,000

Japanese Americans and their parents who were relocated, not a single one was even charged with a crime, tried, or convicted. Their only crime was that they wore Japanese faces resembling that of the enemy.

Nevertheless, we evacuated and incarcerated them, and, as a consequence, they lost their homes, jobs, businesses and farms. To be sure, their faith in the American system was severely shaken.

In retrospect, the evacuation of Japanese Americans from the west coast, and their incarceration in what can only be described as American style concentration camps, is regarded by contemporary historians as one of the darkest pages in American history. It remains to this day the single most dramatic and disturbing event in the lives of many Nisei.

National attention was focused on the wartime relocation of Japanese Americans in 1969 when I introduced in the U. S. House of Representatives a bill to repeal the Emergency Detention Act, a repugnant law which authorized the detention of Americans suspected of espionage or sabotage without due process of law during a national emergency.

The Emergency Detention Act provided for the establishment of camps similar to those in which Japanese Americans were incarcerated during World War II. And funds for this purpose were actually appropriated by Congress during the 1950's and 1960's.

In the late 1960's, during an era of profound social change, it was repeatedly rumored that detention camps were once again being prepared, this time to house anti-war and civil rights protesters. As a matter of fact, I was told by a member of the Justice Department that it would be necessary to maintain those camps because we would be going to war with Red China, and "how could we distinguish the loyal Chinese from the disloyal ones?"

Before introducing that bill, I made a concerted effort to get my colleagues in the House to sponsor the measure, but succeeded in securing only 24 co-sponsors. The bill was referred to the House Internal Security Committee, formerly known as the Un-American Activities Committee. The Internal Security Committee so emasculated the bill, practically beyond recognition, that I myself moved, as a member of the House Rules Committee, in that committee, to kill the bill, which bore my name as its principal introducer.

After intensive and extensive campaigning, with the strong support of the Japanese American Citizens League, I reintroduced the bill in 1970, this time with 149 co-sponsors. Through parlimentary maneuvering and with the help of the Speaker of the House, the second bill was referred to the Judiciary Committee, which reported it out favorably and the House gave its overwhelming approval.

The bill encountered much less difficulty in the Senate and was passed by the Congress. It was signed into law on September 25, 1971. Thus the specter of American-style concentrations camps, a grim reminder of the nightmarish experience to the Japanese Americans, was eliminated by legislation.

Executive Order 9066, Public Law 77-503, and a host of other outmoded emergency war powers granted to the chief executive since the Civil War were repealed in 1976. The publicity surrounding the repeal of the Emergency Detention Act and these Emergency War powers of the President generated a lot of questions about the relocation and internment of Japanese Americans during World War II. Most importantly, the children of the former internees started to ask questions about the internment camps. Why didn't their parents and grandparents protest? Did they commit some crime of which they were ashamed? Why were they not compensated for their losses?

These any many other unanswered questions the detention of Japanese Americans of World War II remain, and there remains an unfinished chapter in our nation's history. The study which you are undertaking today will hopefully shed light on the darkest pages of our history and make all the facts known. Your findings and recommendations will help the Congress to determine whether or not legislation should be enacted to compensate the victims of our Government's wartime relocation policy.

I personally am unable to entertain any doubts in my mind that the Commission will conclude after its study that the internees were subjected to grave injustices by governmental action, motivated by war-time hysteria and treachery, and that the internees, as a consequence, suffered compensable property losses and personal injury.

Such damages and injuries can never be fully compensated at this late date for many of the internees are dead and gone, while others continue to bear irreparable psychological scars. However, a formal recognition of the wrong committed against the internees, and an offer of token compensation to every former internee or, if deceased, to his or her legal heir or heirs, would once again prove that this great nation of ours is so strong and so steeped in righteousness that it is unafraid to admit its mistakes of the past, and to make whole those whom it may have wronged.

What is perhaps most important, is that by your full, fair and unbiased investigation of the actions taken under Executive Order 9066, you will help to insure that no group of Americans will ever again be incarcerated in American-style concentrations camps, solely on account of their race or ancestry.

Thank you very much.

CHAIR BERNSTEIN: Thank you very much, Senator.

COMMISSIONER BROOKE: Chairperson Bernstein, it is my privilege to now introduce as our third witness, Senator Ted Stevens, the Assistant Majority Leader of the United States

Senate. Senator Stevens, together with Senator Inouye and Senator Matsunaga, the leaders in the passage of this legislation establishing this Commission, was personally responsible for expanding the jurisdiction of this Commission to include the Aleuts. We welcome Senator Stevens this morning and look forward to his testimony.

STATEMENT OF SENATOR TED STEVENS

SENATOR TED STEVENS: Thank you very much, Senator Brooke and Madam Chairman and members of the Commission.

Time really is overdue to flush out the tragic experience of these two groups of people during World War II. While much is known about the Japanese relocation, there has never been an official government response to our government's decision to relocate the Japanese Americans during the war. There needs to be such a response. On the other hand, the relocation of the Aleut people is almost completely unknown. Apparently, there was some limited publicity in the late 1940's regarding this relocation, but for some reason it never really came into the public spotlight. I hope your Commission will fully investigate the roots of the Aleut relocation and internment and the conditions which they endured in Southeastern Alaska.

I recognize that the funding for the Commission's work is somewhat limited especially in light of the added responsibilities due to the Aleut part of the investigation. I understand,

however, that the Aleutian Pribilof Island Association may well receive an Alaskan State Grant to help assist in the investigation in Alaska, and I've written the Governor and will do everything I can to see that our State assists in this investigation.

I want to commend you and your decision to hold hearings in Alaska in September. Alaskans will welcome you warmly. We appreciate the efforts that this Commission will devote to fully investigate the Aleut relocation issue.

Thank you very much.

CHAIR BERNSTEIN: Thank you very much, Senator Stevens.

COMMISSIONER BROOKE: Madam Chairman, I have a letter addressed to our Chairperson, Joan Bernstein, from Senator Alan Cranston of California thanking her for her invitation to appear and testify, but regretting his inability to be present with us this morning. He has asked that his letter be read into the record.

"Dear Joan: I regret not being able to join you today as the Commission on Wartime Relocation and Internment of Civilians convenes. As one of the original co-sponsors of Public Law 96-317, the Commission on Wartime Relocation and Internment of Civilians, I am pleased that the Commission has been impaneled with so many illustrious members and will undertake the task of examining the events surrounding the evacuation and subsequent relocation and internment of over 100,000 Americans of Japanese ancestry, and over 1,000

Native American citizens from the Aleutian Islands.

"As you know, more than three decades have passed since the Executive Order 9066 was signed by President Roosevelt. Our Government has yet to consider the long lasting effects this action had on many of the interned and their families. As a result of their detention, many of the internees lost productive years of remunitive work. Thousands lost homes, farms and property, and many were forced from businsses and schools.

The Commission has been empowered by Congress to study the various actions taken under Executive Order 9066, and in so doing to recommend whether or not the government should redress the wrongs caused as a result of this order, and other federal government acts during this tragic chapter of World War II.

It is my understanding that the Commission has already begun the task of preparing a list of witnesses for the many hearings, some of which will be in California, who will assist the Commission in reconstructing the circumstances and in asserting the facts surrounding the Executive Order 9066.

I commend the Commission for its attempts to compile the necessary information on the impacts the Government Order has directly on those who experienced

the atrocious violations of civil and constitutional rights, as well as from surviving relatives who are burdened with the socio-physiological scars inflicted upon them.

As a long time supporter of the needs directed by the wrongs afflicted on the thousands of Americans whose only crime was their Japanese ancestry, I wholeheartedly support the Commission as it endeavors to address the many questions which have been raised as a result of this governmental policy.

My sincere best wishes to the members of the Commission, and I look forward to assisting you in whatever way I can.

Best wishes, Cordially, Alan Cranston, United States Senator from the State of California."

CHAIR BERNSTEIN: Thank you Senator Brooke, that letter will be entered into the record.

Congressman Lungren, our Vice Chairman, will introduce our members of Congress who will appear before us this morning.

VICE CHAIR LUNGREN: Thank you Madam Chair.

There are a number of members of Congress who have indicated their interest in testifying today. We now have five members who are presently here. I would introduce them all at once and have them come up and sit

here at the table and have them give their statements, which we certainly want to receive.

Congressman Robert McClory, a congressman from Illinois is the ranking Republican member of the House Judiciary Committee. He was very supportive of the creation of this Commission as this bill was reported out of the House Judiciary Committee last year.

Congressman George Danielson is a colleague of mine, a Democrat from the State of California, and also a prime sponsor of the legislation, and a member of the Judiciary Committee.

Congressman Mervyn Dymally from Gardena, California, is supportive of our efforts and represents a very large Japanese American population in his district in California.

Congressman Sidney Yates from the State of Illinois was co-sponsor of this legislation, and we are privileged to have with us also Congressman Daniel Akaka, Congressman from the State of Hawaii who was extremely supportive of this effort in the last Congress.

CONGRESSMAN YATES: Mr. Lungren, may I apologize for having to go to the Appropriations Committee meeting that started at 9:30. It is a bill in which I'm interested. May I have your leave to appear before you on Thursday

morning and make a statement at that time?

CHAIR BERNSTEIN: Yes, sir.

VICE CHAIR LUNGREN: Certainly.

CONGRESSMAN DANIELSON: Madam Chairman, I'm in a similar predicament. I will have to rush in order to reach the Subcommittee which generated the bill that created this Commission last year, we meet at 10 o'clock, and I respectfully ask the Commission to submit a written statement.

CHAIR BERNSTEIN: We would welcome your statement Congressman, and thank you for coming this morning.

CONGRESSMAN DANIELSON: Chairman Bernstein, I remember many fine meetings when you were our key witness. Thank you very much.

VICE CHAIR LUNGREN: Thank you all for appearing, and we are anxious to hear your testimony.

STATEMENT OF CONGRESSMAN ROBERT McCLORY

CONGRESSMAN McCLORY: Madam Chairperson, Members of the Commission. I greatly appreciate the opportunity to participate in this initial hearing being conducted by the Commission on Wartime Relocation and Internment of Civilians. Your mandate is an important one and the distinguished membership chosen to serve on this Commission reflects that importance. The treatment which our country accorded Japanese-Americans and other persons of Japanese ancestry

during World War II certainly does not inspire pride. What occurred can only be characterized as a shameful episode in our history, resulting in denials of due process and basic civil rights.

Over 120,000 individuals were expelled from their homes on the west coast and confined in detention camps without having any formal charges brought against them, without any trial by jury. Thousands lost homes, businesses and farms. Lives were ruined, or at least altered for all time.

Last year during both deliberations in the Judiciary Committee on the floor of the House, I strongly supported the establishment of this Commission. It should be emphasized that in the enactment of the public law creating this Commission, Congress was not merely making a symbolic gesture, this Commission is charged with important statutory duties, and I am most confident that they will be implemented in an expeditious and productive manner.

This Commission has a three-fold function. First, it has an educational purpose where, through public hearings and appropriate publicity, Americans of all ages will learn more about these unfortunate events.

Second, it is hoped that the Commission's work will serve as a deterrent function: that your detailed study will serve as a warning to all future generations

of Americans that such an injustice should not and will not be repeated.

Finally, it is hoped the Commission's deliberations will provide a focus for discussion of the various redress proposals that have been put forth.

I should point out that I am concerned about the potential cost of various redress proposals. Certainly more information and data are needed.

Furthermore, I feel that it would be inconsistent with the purpose of the Commission if the sole or primary recommendation was to provide monetary compensation to heirs or relatives of persons who were subjected to various injustices during this unfortunate episode in our history. It would seem to be far more significant and a far greater tribute to the Japanese Americans who experienced mistreatment and unjustices, that a legislative or administrative program should be devised to prevent a recurrence of what transpired during World War II.

With respect to the Aleuts in the Aleutian and Pribilof Islands, the consideration of compensation may require more direct consideration. As the losses which the Aleuts underwent appear not to have been considered up to the present time.

If I might, allow me to add a personal note. During World War II it was my privilege to take into my

home a young Japanese American who was directly affected by these decisions. His name is Tyler Tanaka, and he stayed with us for the duration of World War II. This rewarding relationship graphically demonstrated to me and my family the very real personal dimensions of these actions. Today this gentleman is a very successful businessman operating a travel agency in Los Angeles, California. Like thousands of other Japanese-Americans he has reassimilated himself into our society without any apparent trace of bitterness.

Last year I received a most articulate letter from him urging my support for legislation to create this Commission. He emphasized the need for a mechanism to make all Americans knowledgeable and sensitive to the injustices that took place. I'm sure that he, like all of us, will closely watch your progress.

In conclusion, I want to express my full support for the effort you are about to undertake. You are not dealing merely with historical events, but with factors which could have important consequences for how this nation can assure fundamental fairness for all of its citizens in the future.

In 1976 President Gerald Ford rescinded the ill-advised Executive Order 9066, which had authorized the relocation and confinement. At that time President Ford

stated, "An honest reckoning must include the recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them."

As you go ahead with your evaluation of these important moral and human rights issues, I know I speak for all Americans in wishing you the best of success.

As a member of Congress, I look forward with interest to the recommendations which will result from your long-overdue analysis. The injustices suffered by Japanese-Americans and Aleuts during World War II must never be experienced again, by them or any other group of ethnic or Native Americans.

Thank you.

STATEMENT OF CONGRESSMAN DANIEL AKAKA

CONGRESSMAN AKAKA: Madam Chairlady and Members of the Commission, thank you for this opportunity of appearing before you this morning.

The work of this Commission has just begun. Mandated by Congress to study the circumstances which gave birth to Executive Order 9066 and the constitutional approval actually granted to that order by the Supreme Court, this Commission raises an issue of critical importance to all Americans. The issue under consideration is one whose importance to the very fabric of American freedom can never be overstated. Can the United States

Government, in time of national trauma, willfully suspend the constitutional rights of its citizens? Can U. S. citizens be deprived of their rights to due process and to equal protection under the law in times of national hysteria?

If we are to ensure that a situation comparable to war-time banishment of Japanese Americans to concentration camps never occurs again, then these are questions which must be answered. Not only must we examine the effects of the hysteria which swept through the legislative and executive branches of our Government during the war years, but we must also carefully study the events leading up to the decision made by the Supreme Court when it upheld the validity of the Executive Order 9066 in the case of Korematsu v. the United States.

The fact that the Supreme Court found that normal constitutional protections of individual liberty, such matters as trial by jury and the necessity of a writ of habeas corpus did not apply to Americans of Japanese ancestry is an indication that there were those in this country who believed that our constitutional rights could be applied on a selective and discriminatory basis.

The case has been made by Eugene Rostow, a professor of law at Yale University in 1945, that the Japanese exclusion program rests on five propositions of the utmost menace;

1) Protective custody extending over three or four years is a permitted form of imprisonment in the United States.

2) Political opinions, not criminal acts, may contain enough danger to justify such imprisonment.

3) Men, women and children of a given racial group, both Americans and resident aliens, can be presumed to possess the kind of dangerous ideas which require their imprisonment.

4) In time of war or emergency, the military, perhaps without the concurrence of the legislature, can decide what political opinions require imprisonment, and which groups are infected with them.

5) The decision of the military can be carried out without indictment, trial, examination, jury, confrontation of witnesses, counsel for the defense, the privilege against self-incrimination or any other of the safeguards of the Bill of Rights.

Certainly these propositions are abhorrent to our way of democracy in this country. This Commission must study these premises and discover how we ever could have lent our national approval to principles so foreign to our nation. Through the work of the Commission, America's consciousness must be raised. We must remember that when the rights of one American are abridged, the rights of all Americans are abridged.

Precisely this kind of violation of basic rights of American citizens took place in 1942 with the full approval of the Supreme Court. Certainly it can take place again, if

we do not learn from our mistakes of years past. It can take place again if we do not move to condemn Executive Order 9066 and its subsequent validation by the Supreme Court.

After having reviewed the facts, this Commission also will examine the issue of redress. It will make recommendations as to what kind of compensation, if any, is due those wronged by America during World War II.

Many have suggested financial renumeration as a solution. There are those who feel that this is an ignoble goal and that money can never compensate for lost honor. Those who suffered the hardship of internment during World War II lost both honor and opportunity. Perhaps the most appropriate form of redress is the restitution of that opportunity. Perhaps the most equitable solution lies in the award of transferrable grants and scholarships to each former internee. Under this form of redress, each internee would be eligible for a one-year scholarship for each year he or she spent in a camp. This would at least grant the children and grandchildren of the internees opportunity taken from their parents and grandparents by our government.

Redress, equitable and honorable redress, is an issue which must be considered by this Commission. Certainly in emotional and philosophic terms, we can never repay our countrymen the wrong we did in 1942. But perhaps we can give new opportunity to their children, and to their children's children.

As a nation, we must look to the past for the lessons of history, so that we do not repeat the errors of our past. It is not enough for us to assume that our legal documents will spare us from perpetuating injustice again in the future.

Said Chief Justice Charles Evans Hughes, "You may think that the Constitution is your security -- it is nothing but a piece of paper. You may think the statutes are your security -- they are nothing but words in books. You may think that elaborate mechanism of government is your security -- it is nothing at all, unless you have found an uncorrupted public opinion to give life to your Constitution, to give vitality to your statutes, to make efficient your government machinery."

Let us then, with this Commission, let sound and uncorrupted public opinion breathe life into our Constitution, into our laws and into our government. Our people deserve no less.

Thank you very much.

VICE CHAIR LUNGREN: Thank you very much for that fine statement.

At this time we are privileged to hear from Congressman Mervyn Dymally.

STATEMENT OF CONGRESSMAN MERVYN DYMALLY

CONGRESSMAN DYMALLY: Madam Chairman, Members of the Commission, my distinguished colleagues:

My name is Mervyn Dymally. I represent the 31st Congressional District in California, including Gardena, where more Japanese Americans reside than in any other city in the continental United States.

Today marks the beginning of an historical event. It is an event which many of us who are concerned with justice and the protection of civil rights are carefully scrutinizing. For today, this distinguished Commission will begin to hear testimony from individuals whose lives were directly effected by the bombing of Pearl Harbor and the implementation of Executive Order 9066.

It is certain that in the next two days of hearings in Washington, D.C., and the subsequent ones schedules across the nation, factual information and many statistics will be presented. You will have the opportunity to review official documents related to the incarceration of the Japanese Americans in the United States. You will hear testimony from those who experienced personal tragedies and the loss of loved ones. You will meet some of those responsible for administering the uprooting of approximately 110,000 Japanese Americans from their homes and their assignment to "relocation camps." You will be given first-hand accounts of the suffering and hardship endured by fellow Americans of Japanese descent. You will learn what it was like to be forced to remain within the confines of guarded, barb-wired grounds and to live under the constant surveillance of those who suspected you as the

enemy. You will be reminded of how the Japanese Americans struggled to emerge from their oppressed and impoverished state. You will find that the impact of the war was so great that many Nikkei make a distinction in their lives of "before the war" and "after the war." You sit in a unique position, for you will watch history unfold before your eyes.

Although I am slightly familiar with this matter, I claim no expertise in the details. One observation I do want to make, however, is that if we were to wait merely another six months, America could once again quitely ignore another anniversary of this tragic event. This should not surprise anyone, for up until now, we have somehow been able to successfully diminish the importance of this February 19, 1942 document. We have accepted the events as if we are sufficiently satisfied with the government's justifications and explanations for these illegal acts. And at the same time, we have managed to mute the cries of those who have sought to expose the injustices imposed.

In other countries, many of those who were responsible for war crimes have stood trial and have been punished by prison or death sentences. Yet through the years, despite the uncovering of reports, memoranda and statements that discredit the notion that the Japanese Americans were disloyal and dangerous, the Government has allowed this belief to be perpetuated. It has done so by taking an unassuming posture. It has found ways to avoid addressing the real issue at hand:

Whether or not the Government can justifiably deny the inalienable rights that the Constitution guarantees to everyone.

The Supreme Court has skirted the issue by discussing compliance with curfews and executive orders, without looking at the constitutionality of this matter. It has also fallen into the trap of playing the game of semantics -- of trying to determine whether the Japanese Americans were interned, incarcerated or imprisoned, in relocation centers or concentration camps. The fact of the matter is that many of the Nikkei put in these camps were American citizens and, in spite of the treatment accorded them, chose to fight side by side with their fellow countrymen.

All these points should not be taken lightly. We should not be so naive as to think we are incapable of committing a similar crime today. Just recently we had an opportunity to see a glimpse of our shortcomings when the Iranians held our 52 American hostages. It was suggested by some more than once that we round up the Iranians in the United States. As you can see, we have not progressed as far as we would like to believe.

It is for those very concerns that I come before this distinguished body today to convey my hopes and wishes that this Commission will not restrict itself to the limited and

narrow scope of your predecessors. I urge you to take it upon yourselves to accurately report the truth, and more importantly, to have the courage to take the appropriate action to seek remedies in order to rectify the situation. This will undoubtedly be the most difficult task that you must seek to achieve as members of the Redress Commission. By sitting on this Commission, you have the unique opportunity to change the course of American history. All eyes will be watching you to see that your final recommendations are appropriate, compassionate and fair.

In conclusion, Madam Chairman, I bring to you a message from some constituents in Gardena. They would like very much for you to hold a night hearing in the city of Gardena to provide those people who are working an opportunity not only to testify, but to attend the deliberations of the Commission when you go to Los Angeles.

CHAIR BERNSTEIN: Thank you very much Mr. Congressman; we will certainly very seriously consider the request from your district.

VICE CHAIR LUNGREN: Now Madam Chairman, we have the privilege of hearing from another congressman, Congressman Michael Lowry, congressman from the State of Washington, and a colleague of mine from class of the 96th Congress.

STATEMENT OF CONGRESSMAN MICHAEL LOWRY

CONGRESSMAN LOWRY: Thank you, valued colleague, Madam Chairman and Members of the Commission.

As one of the over hundred co-sponsors of the Commission bill, I want to thank you for your personal time commitment and service that you are giving to this very important subject. For your sake I hope all one hundred of us don't come before you too because it would be a very long two days.

I have submitted written remarks for the record and I believe it's before you. With your permission I would like to just summarize and not read the entire statement to save a little time.

It is, of course, very fitting that this first important hearing begins here in this Capitol. The Capitol is the seat of power of the greatest nation in the history of the world. I think it is very important that we remember what makes this nation great and what are the principles of this nation that made it great. And the most important principle is that of protecting individuals against the abuse of government power.

COMMISSIONER GOLDBERG: That's what the Bill of Rights is all about.

CONGRESSMAN LOWRY: That is what the Bill of Rights is all about, yes, sir.

In 1942 this nation, founded on that principle, and made great by that principle, in the Executive branch and Legislative branch and Judicial branch forgot that principle.

We, in the next five years, are going to spend well in excess of $1 trillion for national security to protect what this nation stands for, and while we all know that it is important and necessary, it will be a Maginot Line if we forget the principles we spend that money to protect. It is argued that our children and the children to come after us, are going to want to protect the nation they can be proud of because it believes in those individual liberties, and that is why the work that you are performing is so important.

I, last year also, with many other colleagues in the House, introduced a direct redress bill. That bill was estimated to cost perhaps as much as $2-1/2 to $3 billion. There was certainly no scientific study as to the amount of direct redress that was in the bill, but one of the purposes was to try to focus right on this question of the tremendous loss that individuals had, most of whom were given maximum of five days to dispose of their property, and see their families separated.

To focus on the tremendous losses so that we could not just forget that loss by passing a resolution, the work of this Commission, the information that you gather, will be very important to those who don't have the honor to serve in Congress, in determining what type of legislation again should be introduced and should be looked at after the Commission has done its work. I, myself, am going to value that very much.

I want to again thank you for your time. You embark upon a very important point in history in this nation.

CHAIR BERNSTEIN: Thank you Congressman Lowry. I think you might be what my children call a role model for a witness. I would encourage any witness who wishes to summarize statements and incorporate them in the record to do so. Thank you.

VICE CHAIR LUNGREN: Thank you, Mike.

The next witness we have the privilege of hearing is Congressman Cecil Heftel from the great State of Hawaii, who was very supportive of this legislation in the past Congress.

STATEMENT OF CONGRESSMAN CECIL HEFTEL

CONGRESSMAN HEFTEL: I hope Madam Chairman will allow me to summarize and ask that my statement be placed in the record.

I do feel priviledged to join with you today. I think there is a rather painful message for us in the fact that we are assembled to redress some very specific wrongs against over a hundred thousand of our citizens and legal aliens because of a latent bias in our society. If we don't address the fact that we in America still make the serious error of thinking of people in terms of how they look, the color of their pigmentation, we won't realize that we are always threatened by losing sight of the concept of quality for all the people. We threaten the very nature of our society.

I don't think it inappropriate to remind ourselves that these concepts of freedom for all are always being threatened

and today I think we have to point out that our society is again being threatened under an umbrella called the moral majority of what we find in that the concept is in many ways antagonistic to the freedom and the rights of all American citizens. And so it is not to be looked upon as something that happened 40 years ago was a horrible mistake which could never be repeated, to act as though we've learned something in the last 40 years. I'm not sure we have. I think if what we have learned is of significance, it is simply that the danger is always there, the bias is always sitting there, it is always ready to leap upon us and threaten us. And so I hope that this distinguished body will somehow, before it is through, remind America that what happened to us 40 years ago could just as easily happen again, and that we need to protect those safeguards for all people and citizens as great as it ever was.

I thank you very much.

CHAIR BERNSTEIN: Thank you very much.

VICE CHAIR LUNGREN: Madam Chair, I have received a statement from Congressman Robert Lagomarsino, a member of Congress from the 19th District of the State of California, which he has requested be placed in the record of his absence.

CHAIR BERNSTEIN: Thank you very much. It will be accepted into the record.

And I would like to acknowledge one more submission jointly sent by Congressman Norman Mineta and Robert T. Matsui, both members of Congress, and I would like to read their brief statement:

"We regret we are unable to attend the first hearing of the Commission on Wartime Relocation and Internment of Civilians as you begin your important work today. The schedule of the Ways and Means and Budget committees, which are now considering the two major issues before the 97th Congress, preclude us from personally appearing before the Commission. We worked in the Congress to see legislation enacted to establish this Commission because we feel that America has a great deal to learn from an objective study of the World War II internment of American citizens of Japanese ancestry.

Over 110,000 Americans of Japanese ancestry -- <u>American citizens</u> -- were removed from their homes and relocated to internment camps, and held against their will throughout the duration of the War. The constitutional rights of citizens of Japanese American descent were denied, and so long as this action is allowed to stand unchallenged, unreviewed, we feel that it could happen again.

During the past 20 years there have been commissions on urban riots, on violence in our society, on campus unrest and most recently on nuclear power safety. For the most part these commissions have been surprisingly successful, and have brought important issues to public attention. While commissions may stir up old prejudices and fears, they also tend to bolster those discussions with facts.

There is a great deal to be learned in undertaking a comprehensive study that has never been attempted and

together all the knowledge never before assembled. Instead of focusing on secondhand accounts, inaccurate information and accepted myths, the Commission will force us all to concentrate on the facts, what really happened and what were its real effects.

As you begin your work we wish you success and we look forward to a thorough review of the entire internment and relocation experience."

Their statements will be accepted into the record.

As chairman I must say that I am personally gratified and would like to thank all the members of Congress for their extraordinary support. It was indeed eloquent, and I'm certain that my colleagues feel as inspired as I to pursue the inquiry which we begin today with vigor and with fairness. Their testimony, I think, will also help to set the tone that all of us expect to maintain throughout this inquiry. It is a serious inquiry; it will be conducted with dignity.

We have a full schedule before us today, and I, as chair, will try to maintain the time as need be. After each witness' testimony I will call upon my fellow commissioners to ask questions as they wish. As I said, we have a full schedule. I would encourage all of our witnesses to have full statements to consider whether they would like to have the full statement admitted into the record and summarized. I will not insist that procedure of course, but I would ask them to consider it.

The first three witnesses are here with us because they were officials at the times of these events. The first is James Rowe, who is presently an attorney in Washington, D.C., and will describe his knowledge of these events.

Welcome, Mr. Rowe. On behalf of all of us we are very pleased that you were able to come and be with us today.

STATEMENT OF JAMES ROWE

MR. ROWE: Thank you, Madam Chairman. I don't have a statement you'll be happy to hear, because although your staff harassed and intimidated me, I didn't have time. I was up in Canada where we were preparing at Campobello, the 100th anniversary of President Roosevelt's birth next year, so I didn't get a chance.

I also was not quite sure what I wanted to say if I had a written statement, so perhaps the best thing for me is to just start talking. I will talk as briefly as I can.

It was suggested that I talk about the Department of Justice's role. Just before Pearl Harbor, President Roosevelt appointed me as the Assistant to the Attorney General, which is now called the Deputy Attorney General, which was then and is now, the second ranking position in the Department of Justice. As I was the second under Francis Biddle, the Attorney General, and although I was nominated and confirmed before Pearl Harbor, I was on vacation and did not arrive at the Department until right after Pearl Harbor.

I found at the time that there had been a planning commission at the Department of Justice, a war planning committee, whatever you wish to call it that had been operating for about a year or six months on the theory we might get into a war. Also on the theory which proved correct that our enemies would be the Japanese, the Germans and the Italians. And what they were doing was trying to make a selection of the German, Italian and Japanese aliens, enemy aliens we might have thought were dangerous. There was a planning committee, Charles Fahy; the Solicitor General was on it; Frank Jay, a distinguished Assistant Attorney General was on it; and Edward Ennis was on it and I think he is testifying tomorrow.

If there is a hero in this whole story his name is Edward Ennis. What they tried to do was classify enemy aliens, and the way they did it -- I think Ennis was active in the program, I wasn't there to tell you better -- they would, for instance, take a dangerous German and if the evidence showed he was very dangerous he was an "A." If the evidence was good, he was an "A-1." If it was poor it was an "A-4."

I may say that is some of the cases I looked at, we picked up right after Pearl Harbor, the ones I did look at would be Japanese because I was in California dealing with General DeWitt and I went to some of our hearing boards, pretty thin stuff. A fellow would laugh and wave it around at night and they would therefore think he was signalling.

We also set up -- this was after Pearl Harbor -- hearing boards all over the country, about 90 of them. And they were staffed usually with a distinguished private lawyer, and a couple of other private citizens; and the arrested alien would be brought before them, the FBI would present the case, and then they would study it. He would be allowed to testify or a friend would be allowed to testify. We didn't allow lawyers to represent them. I'm talking only about aliens now.

I may say, Mr. Justice, that it went much better, much faster without lawyers.

COMMISSIONER GOLDBERG: The Bar Association is going to hear that.

MR. ROWE: Well, at my age I don't really care.

The program worked quite well; we picked up right after Pearl Harbor about 60,000 enemy aliens -- I think mostly German, a large number of Italians and a large number of Japanese. And we thought we were off to a pretty good run. Francis Biddle was a civil liberties Attorney General. I think it hurt him at the end, but he as a private lawyer had been an American Civil Liberties Union lawyer in Philadelphia, but at the time he was going to make sure he was not like his predecessor, Palmer, the Red Rage during the Wilson days, and he was a great believer in civil liberties.

Our first trouble, if I could call it that, started with General DeWitt in California; in fact I can almost say

the problem was a California problem. I don't like to be cynical but as I listen to these California congressmen today complaining, I can remember 40 years ago when Edward Ennis and I were keel-hauled down here by the senators and the congressmen of California, Washington and Oregon, "what are you doing; you're not doing enough; you've got to stop," and the Californians, even a fellow like Jerry Voorhis, the gentlest, most liberal congressman whoever came here was in favor of evacuation and they were very rough with us. Colonel Bendetsen would come down and make the Army case; and we would try to make the other case. And they made a pretty good argument about "how can you lawyers talk -- what do you know about this?" This was the military. Great phrase called for military necessity.

If you had a military uniform on, you'd say military necessity, at least in this very early stage people bowed down. I remember Ennis at one time said there was no evidence whatsoever that either sabotage or espionage, and I gather they never did turn up, but the rumors were floating around. One congressman came to me one day when Ennis was making this argument and said, "Just what if you're wrong? What if the Japanese do this?" Ennis replied, "Well, just take us out and shoot us."

There are two exceptions, Senator Sheridan Downey a senator from California, a maverick senator, lasted one term, said he didn't think it was necessary. And Harry Cain, probably the most conservative Republican senator who ever came to

Washington, and was then the mayor of Tacoma.

COMMISSIONER GOLDBERG: That's saying a lot!

MR. ROWE: That's your opinion, sir, and regret to say I share it. But he was.

But he thought it was nonsense. In any event, things went fairly well until we got into what would be called the Restricted Area problem. We were allowed to, under the war powers, put out aliens from any restricted area. The restricted areas were picked by the Army. And it made sense, at least what we thought it was. . .we thought a restricted area, let's say a power plant or a port or a harbor -- we didn't want a lot of enemy aliens down there. And that was the way General DeWitt first viewed it.

I went out to California in December and spent several days negotiating and arguing with him, and I said that we would enforce the areas, the restricted areas, provided there weren't too many, they weren't too big.

And the General as I found him at that time was a very reasonable man. He did argue about spot raids, he wanted mass raids into the Japanese homes -- we're still talking about aliens, and not citizens.

And I said that we couldn't do it, we wouldn't do it, that we didn't have the manpower. The FBI did not have the manpower; we had no intention of doing it. He finally gave in on that point.

He wanted a registration of all alien enemies; he got it. And in general we left on quite amiable terms and I came back to Washington.

What I say now is speculation, but obvious speculation. California and maybe the west, got into a period of hysteria, but somewhat reasonable hysteria. I remember when I was out in California they tried a black-out for 45 minutes with the lights out in San Francisco. There was, I think, one instance a submarine did shell the California coast. The only thing I think was ever proved, and that made people nervous.

I think the real answer is that if you remember the times, we're talking Pearl Harbor, December 7th until February 19th when the Executive Order 9066 called for the move, it was a very short time. And during that short time the United States was on the run. Singapore went down, Hong Kong went down, others were sunk by the Japanese, the Philippines fell, Bataan fell, everything was falling and we were really nervous. Even in Europe Rommel was marching in North Africa. And we did not look very good, we were in real trouble, and people became more fearful. Became more fearful I think in California because it was closer to Hawaii. We're not all that experienced, and if the Japanese could reach Hawaii then why couldn't they reach California?

And there were all sorts of rumors going on about signalling out to the submarines which would then sink our

ships, which the Federal Communications Commission examined and said there wasn't a thing to it. But my experience was that people weren't listening, and what really ended up, you had a handful of lawyers in the Department of Justice, Biddle, myself, Ennis and some of his staff (he had a fairly large staff) who were against the evacuation right from the beginning. He said it was unconstitutional, which we think it was, and some of us still think it was; and we also thought that when you start talking about American citizens they should all be treated alike. This was our policy and we never changed from the beginning.

But we didn't have any allies, there weren't any around. I don't know where you were, Mr. Justice, you were either an OSS spy or a labor lawyer in Chicago.

COMMISSIONER GOLDBERG: I was in the Army.

MR. ROWE: I'll withdraw the spy part, you were in the OSS for a while.

On the other hand, you had beating our brains out, supporting DeWitt, but also putting pressure on DeWitt, the great liberal governor, Governor Culbert Olson of California. Your esteemed chief justice, Earl Warren, the great civil liberties chief justice, was leading the pack.

Manchester Boddy, who was the great liberal editor of the Los Angeles paper. . .always great. . . Great New Dealer. He started saying Biddle should be impeached and then he said he [Biddle] should be hanged. Jerry Voorhis I mentioned, lovely man but he . . .

Walter Lippmann, and then I turned to some of your colleagues, Frankfurter who wrote the opinion, Bill Douglas concurred. Even Ben Cohen and Joe Rauh, great New Dealers, good lawyers. They wrote an opinion saying that if they were moved it was constitutional, but they didn't say they should be moved. On the other hand they volunteered; nobody asked them for their opinion.

So the only fellow on the other side that I can find -- or one more colleague of yours, Tom Clark, he was then a lawyer in Justice. We sent him out to be with DeWitt and he was supposed to be our representative. In a week he was making statements, so it was a rather unequal battle. The only fellow on our side was Norman Thomas, he was a great man but didn't have any votes.

And that I think is about the end of my comments.

CHAIR BERNSTEIN: Thank you, Mr. Rowe.

May I ask my colleagues please to indicate whether they would like to ask questions? Mr. Goldberg?

COMMISSIONER GOLDBERG: Mr. Rowe, an old friend and colleague of many good causes. You downgrade your own role; the record shows that you are a vigorous opponent of relocation. I have read the record, and you give great credit to Ennis, but the name James Rowe also should be mentioned honorably.

MR. ROWE: Thank you.

COMMISSIONER GOLDBERG: What disturbs me and perhaps some of my colleagues, is this, and perhaps you can enlighten us. Since Attorney General Biddle and you probably would say liberal, so Ennis who became the president of the American Civil Liberties Union was against it. The question then is this that bothers me. Were your views, the views of the Attorney General, communicated to President Roosevelt formally? The record shows that in the relationship with the War Department, you in particular, acting for the Attorney General, said what you have said here today, that you thought it was terrible; and Senator Inouye said an act of dishonor as well as unconstitutional.

And so the question I have to ask is this: Did anyone, the Attorney General, or anyone else, outside the formal right, go to the President of the United States and say, "Mr. President, this is legally and morally wrong." Do you remember that, Mr. Rowe?

MR. ROWE: Do I remember what? What happened?

COMMISSIONER GOLDBERG: Whether that took place?

MR. ROWE: Mr. Justice, some little bird told me you were going to ask that question.

COMMISSIONER GOLDBERG: That was a mutual friend, and I thought I ought to give you forewarning.

MR. ROWE: It's a hard question. It's a hard answer. I think the quick honest answer is I do not know. People have often asked me if it came

up again would you have done anything differently, and the answer is yes. In a bureaucratic life I can now look back 40 years and see how we could have done different things and done them better. I think in many ways we at the Department of Justice were incompetent, the trouble is we were the only ones --

COMMISSIONER GOLDBERG: You did have some support from Secretary Ickes?

MR. ROWE: Oh, Harold Ickes?

COMMISSIONER GOLDBERG: Yes.

MR. ROWE: Ickes, yes, and Abe Fortas was Under Secretary; and I think, although I'm not sure, that they were struggling mostly with Hawaii, which was their problem, the Japanese problem in Hawaii, and they did that very well there. And then there was the State Attorney General Garner Anthony who fought the Army.

Now to get back to your hard question, we dealt mostly with we Justice, and let's say at the top level, Biddle, Rowe and Ennis were dealing with Jack McCloy, great leader of the establishment as you know --

COMMISSIONER GOLDBERG: No greater.

MR. ROWE: No greater, he's it. And Colonel Bendetsen, and of course on the west coast, General DeWitt.

Not very much with Secretary Stimson, which I think was a great mistake. Stimson, as I have learned since I read all these books, was bothered by it, and he said it was a tragedy, and I think perhaps we should have

zeroed in on him. He was, as you know, Mr. Justice -- he was probably the best public servant this country has ever had, Assistant Secretary of War under Taft, the Secretary of State under Hoover, and Secretary of War under Roosevelt. And he was a great lawyer, and I think a man mostly of good will. In fact, at one time, at the last meeting we had, Mr. Ennis was snapping at him, like a terrier, which he always did, and Mr. Stimson said, "You've got to assume, Mr. Ennis, that we are all men of good will." Well, I think he was.

I do not know this period, and it is silly for me to sit here as an old friend of Biddle's and tell you I know and I cannot remember whether I asked and he wouldn't tell me, I don't know. The last meeting we had with Gullion and McCloy was -- Gullion pulled out Executive Order 9066. Ennis screamed, I screamed; Biddle didn't say anything.

COMMISSIONER GOLDBERG: That came from the Provost General.

MR. ROWE: Right, the Provost General.

COMMISSIONER GOLDBERG: And Colonel Bendetsen was the representative.

MR. ROWE: That's right. I don't know whether Bendetsen wrote it or Gullion wrote it, but it became 9066, and I know that it was because I took it to the Budget Bureau and Harold Smith, the Budget Director, took it to the President.

Stetson Conn, the Army Historian, once told me that Stimson and McCloy had gone to the President and discussed it with him and they said they had to have the power to evacuate the Japanese.

At this meeting with Gullion and McCloy, Ennis and I were arguing. Biddle, for the first time, was quiet; and this rather bothered us. And my assumption then and since is that he had got his orders from the President, that this was it, don't fight it any more. There's an alternative possibility. This had been a nasty three months, we were all kicked around, and Biddle wasn't going to move the Japanese but if the Army did it was off his conscience. So I don't know which story is true.

COMMISSIONER GOLDBERG: May I asked you also this question. The final solution was to designate the Army and designate --

MR. ROWE: Yes.

COMMISSIONER GOLDBERG: And it has been said in some of the books, and I would like you to enlighten us, that this came out of a Justice Department concept that, well, this was a way to get around. What the Department of Justice, the Attorney General, and you in particular and Mr. Ennis regarded unconstitutional, we create army areas, people could not go in and out without a pass, although it was soon discovered it could not apply to Germans and Italians, because we would have to put up General Eisenhower, because he was an ethnic German.

Now, can you enlighten us; I've read that, and it is difficult for me to get the concept in particular --

MR. ROWE: The device of the restricted area in the beginning again is a very sensible one, which the Army insisted upon, but we had power to do it and we thought it was right to close off the power stations, close off any place where one fellow could get in with a bomb and blow the place up. And that worked quite well for the first few weeks all through the west coast and it did not seem to be an east coast problem although I think we later did that.

I got a little tired of all this business so I went off to the Navy where it was more peaceful, so I don't know really what happened at a certain stage, but I'm told that it was done on the east coast, not very much.

Now the problem in California and the west coast was that the Army kept expanding where the restricted area was. It was a nice little power station one day, and finally, which was really what brought the blow-up, they all decided the city of Seattle was a restricted area, the city of Portland was a restricted area, and we said "That's silly, we won't do it."

COMMISSIONER GOLDBERG: Finally, can you explain this fact? I suppose the man I admire most in judicial, who is one of my colleagues and the second Charles Fahy, no greater justice ever lived, and yet you have said, Charles Fahy argued the case, Ben Cohen, Joe Rauh, whom I have great

respect, they joined, Ed Ennis, Justice Clark tried -- of course my revered Chief Justice with whom I had the honor to serve, Warren did, and interestingly enough, his Attorney General Kenny became the President's lawyer.

Can you say to us, was it wartime hysteria that affected everybody?

MR. ROWE: First, I'll defend Ennis. He did work on the case, but the War Department made a representation to the Justice Department. Mr. Biddle said they wished he'd be taken off because they were sure he would sabotage the case, and I think he would have had he the chance.

I think -- I've had 40 years to think about it, and I really think what caused all the problems was the early three months of the war when the United States was being beaten all over; we were all frightened, we were all scared, particularly in California. I think it got to them all.

My first meetings with DeWitt were when he said it was absolute nonsense to have evacuation. Then the hysteria started rising. There has been some speculation, and there was at the time that part of this was contrived as a way to get the Japanese property. It worried us. I don't think we ever proved anything like that -- that there was a conspiracy, but there was hysteria all over the place. Earl Warren at the time was Attorney General, was a prosecutor, and prosecutors, as you know think differently than the rest of us.

CHAIR BERNSTEIN: Congressman Lungren has a question, I believe.

VICE CHAIR: Mr. Rowe, you mentioned the meeting that took place where the Attorney General was there and General Gullion was there. That, according to the information we have, that same day, February 17, 1942, the Attorney General had written already that day a memo to the President, stating that he felt mass evacuation was undesirable. Then evidently he did not protest too much at that meeting when the General pulled the draft of the Executive Order out.

Can you give us a little more information as to what the General was saying at this time, what information he was relaying to the Attorney General, what kind of exchange took place in terms of what you said, what Mr. Ennis said?

MR. ROWE: What you're really asking is the Attorney General's point of view at the time.

I can't remember that memo, but I assume it was at the beginning of our strategy which Justice Goldberg mentioned, it was about time we started moving in on Roosevelt, and, of course, we moved in too late.

I think he probably knew that the game was up. This is a man I'd lived with all my life until he died . . .I ran his memorial service. I just must not have asked him or he wouldn't tell me why he stopped that. I just assumed he had orders.

Now he had orders, if he got them, from President Roosevelt, and this is a crude way to put it but quite true, that at this particular period of war, you had a wartime president, and this is really a minor issue, 110,000 people; he was also listening at this time to his generals. You did have military necessity, it should be emblazoned on building...

I think Roosevelt was going to listen to the generals. J. Edgar Hoover, he had respect for his security. Hoover said this was not necessary. He said he had already gotten the bad Japanese locked up and he knew where a few others were, and when it was necessary he would grab them; it wasn't necessary. Naval intelligence said the same thing. So these were all arguments against it, but they never made any headway. And I think Roosevelt just once Mr. Stimson came in with McCloy, the great man, said we have to have it, and Roosevelt was engaged in the war with Churchill and the rest of them, and he said if you have to have it, if you have the generals pushing you on it, I'll go along. And I really think that this is where McCloy was, he was backing up his generals. I think Bendetsen was a believer, but I think McCloy was supporting the line of command, and I think Stimson may have been worried about it, McCloy was his right hand man, he had been handling the problem, and I think he just got everybody backing up everyone else. Now that's not an answer to your question. I don't really know what he was thinking at the time. I can only say I was greatly surprised when he stopped arguing.

VICE CHAIR LUNGREN: It just seems very very interesting that he authored a memo the same day but then following that, that evening, this meeting takes place. And I know 40 years is a long time to remember back to specific parts of conversations, but I just wondered if you can recall any representations made by General Gullion at that meeting to the Attorney General with respect to the necessity for the Executive Order.

MR. ROWE: I do not know. I don't think the Attorney General had a high opinion of General Gullion, let me put it that way. And General Gullion was talking with him on this, and I don't think he would have carried any weight.

Now if Gullion told him that Stimson and McCloy had got permission from Roosevelt, and he then checked it and found that Roosevelt had given him the go-ahead, I think he would have inquired. But I don't know that any of that's true.

CHAIR BERNSTEIN: Are there further questions?

COMMISSIONER MARUTANI: Mr. Rowe, were you possessed of the Curtis B. Munson Report at the time these actions were taken or decisions made? I believe the report, Curtis Munson's report, came out somewhere before Pearl Harbor, and conducted a complete investigation of the so-called Japanese community in the United States.

MR. ROWE: It does not ring a bell, I think I've read something about it.

COMMISSIONER MARUTANI: I believe he was commissioned especially by the State Department but under the direction of President Roosevelt that the President wanted some investigation made of the so-called Japanese communities in the United States.

MR. ROWE: I think I read it in the Great Betrayal or the American Betrayal.

COMMISSIONER MARUTANI: But you were not aware of that?

MR. ROWE: No, and I certainly didn't read it.

CHAIR BERNSTEIN: Senator Brooke.

COMMISSIONER BROOKE: I yield to the Justice.

COMMISSIONER GOLDBERG: Looking today -- and we all benefit by hindsight -- but looking today, is there not a larger question which we have to cope with that we have to be on guard which has been more or less asserted to by the Congressional and Senatorial witnesses, that while we must protect the nation as the Supreme Court said the other day, we have this minority, and they quoted me, the Constitution is not to sit back -- isn't the larger question which we have to cope with that we have to be on guard, that under the guise of national security, we've got to be very careful, all of us about actions, which may interfere with the constitutional rights there?

MR. ROWE: That is sort of like applying a mother... Mr. Justice.

The answer is yes. I don't know how to do it. The last 40 years sometimes in my cynical moods, I think civil liberties is great, you don't have them when you need them. And that's going too far.

I think in wartime you have a serious problem; the state must be survived; survival is most important, we start watching all sorts of things. As I say, in this case, there was no evidence, except hysteria, and it just took over. It took over a lot, as you pointed out, of very good men.

CHAIR BERNSTEIN: Senator Brooke.

COMMISSIONER BROOKE: Mr. Rowe, I don't see this as a liberal-conservative issue. I think it was purely a constitutional question. Did you have a cabinet meeting? Did the President call a cabinet meeting to discuss this issue?

MR. ROWE: My impression again is no, but my impression again is hearsay. If you read Biddle's book, I don't know whether you have, but he's quite good on this issue, it's called In Brief Authority, and it is his public career, and he discusses the Japanese problem.

He does say that it was -- when his discussions with Roosevelt, private discussions, or after the event, Roosevelt always pointed out the military necessity question. He was going to rely on that judgment and not on the lawyer's judgment.

Biddle did say that there was discussion in the cabinet there but it was very desultory, it was not really considered. But I don't think Roosevelt used the cabinet, he didn't discuss too much with the cabinet anyway.

COMMISSIONER BROOKE: He didn't discuss what?

MR. ROWE: He didn't discuss any serious problems in his cabinet anyway. So you would not have expected, although you might have with fellows like Biddle and Ickes, but evidently it was not discussed in the cabinet. Now that's based solely on the Biddle book. I have no knowledge of my own.

COMMISSIONER BROOKE: In response to Justice Goldberg's question you said you don't recall or you didn't know if a formal opinion was given to the President about the Justice Department.

Do you recall whether, prior to making his decision as to issue this executive order, that he made a formal request of the Justice Department for a written opinion?

MR. ROWE: You mean the President?

COMMISSIONER BROOKE: Yes.

MR. ROWE: I'm almost certain he did not.

COMMISSIONER BROOKE: He did not? All of this was just talk between the Attorney General and General Gullion and the President and perhaps Stimson, the Secretary of War at the time, and maybe Harold Ickes? Was he then Secretary of the Interior?

MR. ROWE: Secretary of the Interior, but I think Ickes' main concern because Hawaii then was under the jurisdiction of Interior. I think his main concern was Hawaii. Now he always made noise, so he must have made some noise on this subject too.

COMMISSIONER BROOKE: Even if there were no questions, perhaps there was some dispute on the question of curfew, but certainly on the detention; that was clearly a constitutional question.

Are you satisfied with the Justice Department, that it made as strong a case as it possible could to the President in opposition to the evacuation?

MR. ROWE: As I think I said to Mr. Justice, in all bureaucratic fights, as you look back, you could have always done it better, and I'm not satisfied.

COMMISSIONER BROOKE: You are not?

MR. ROWE: I'm not satisfied. I think we could have done it much better; we were always on the run, I must say. I don't know how you could be on the run and up against the wall at the same time, but that's where we felt we were. The press was after us, Congress was after us, the mail was after us, and we were sort of reacting all the time.

Now I think in looking back, and we were tired too, we were up all night, I think we could have done a hell of a lot better job, and we didn't do it. But we were all they had.

COMMISSIONER BROOKE: And finally, after the Executive Order was issued, did you continue to monitor this procedure, did the Justice Department take any stance subsequently, relative to the evacuation, after the executive order was issued, and the military began to operate under that executive order?

MR. ROWE: We had some brief meetings for about two or three weeks; Milton Eisenhower came in to run the program, and we were responsible for getting Dillon Myer, because we didn't think people in Defense knew people like Dillon Myer, who ran, and I'm told and I think it's true, who ran very good camps; if any camp can be good. He was a fair man, and we did try to set up a system on the property of the Japanese, and I will say for McCloy that was his chief interest, some way of protecting them. But about two weeks after that we faded out and went back to our regular alien enemy program, Germans and Italians.

COMMISSIONER BROOKE: So we can conclude then, the proper conclusion could be drawn that the President acting with the advice and counsel of the Department of the Attorney General, Justice Department, and also with the Department of the Army, was it War at that time?

MR. ROWE: It was the War Department.

COMMISSIONER BROOKE: That it was his responsibility and he made this decision perhaps based upon what he believed was important to the successful prosecution of the war, is that it?

MR. ROWE: I think the President made the decision. I don't really think he spent much time on it. And this,

again, is hearsay. I was not in on the act. It was, as I said, a terrible thing to say, but it was a minor problem with the President.

COMMISSIONER BROOKE: Well, I was not privileged to know the President, but it would seem to me from all accounts that I've read in the histories that he was a man who didn't make decisions precipitously. Perhaps the case was not made. I'm not trying to defend the President's decision. What I'm trying to say is that if he considered this to be a minor matter, then apparently the magnitude of this case was never really brought home to him.

MR. ROWE: I think there is something to that and I think that was certainly a part of the failure was the Department of Justice, the Attorney General, me -- I had worked with the President for four years beforehand, and I did not push into the White House because, well, let's say as an example, when Justice Goldberg was Secretary of Labor, he had a brilliant young Assistant Secretary named Pat Moynihan. I don't think he would have been happy if Pat Moynihan had been sneaking around and seeing President Kennedy. I'd like to try to do it all over again; we could have done it better. I do think perhaps it was a precipitous decision by the President. Now if he had temporized and thought about it, didn't do anything for a long time there were other problems, we were worried about violence out there, the sweeping in of the Japanese, I don't know. I don't think the way to protect people from violence is to put them in camps.

COMMISSIONER BROOKE: I don't want to prolong this, I've had my time; but you raise that question. Was that any of the consideration that went into this decision to protect the Japanese, I think the record ought to be clear. What I read I don't see that, but I've heard people say that they were being protected by being evacuated and put into camps. Was that part of it?

MR. ROWE: We heard that a great deal, it bothered us; I don't think it affected our decision or our actions, no; but it was a cloud --

COMMISSIONER BROOKE: It was not the basis of the Justice Department opinion.

MR. ROWE: No.

COMMISSIONER BROOKE: And to the best of your knowledge it was not the basis or was not a significant part of the decision basis for the President?

MR. ROWE: I do not think so.

COMMISSIONER BROOKE: Thank you, Madam Chair.

CHAIR BERNSTEIN: Commissioner Mitchell.

COMMISSIONER MITCHELL: Mr. Rowe, you were quite definite about the attitude of the politicians on the West Coast.

MR. ROWE: I think I left you out.

COMMISSIONER MITCHELL: Of course in California -- I'm wondering, you didn't say anything about the propaganda effects of the -- the unfounded statement of Secretary Knox that a fifth column was operating in Hawaii.

MR. ROWE: I heard about that. You know, you get that statement 25 times a day by somebody that the Japanese were moving in here, they were moving in there, in California, and you've all heard the famous business that the arrow in Hawaii pointing to Pearl Harbor, someone said that any pilot would not be looking for arrows because there Pearl Harbor was right under his nose. But this kind of thing was going on, you could hear anything you wanted, and it was all fear, all hysteria.

COMMISSIONER MITCHELL: Was there time for investigation of such statements?

MR. ROWE: Yes, the Army would go out and investigate it and find if it was true; Justice would look at it and the FBI would look at it and say it wasn't true.

COMMISSIONER MITCHELL: The Army investigated it, and of course they agreed completely with Secretary Knox.

MR. ROWE: That's it. I think in many ways, it's a little late 40 years later to say it, the Army wasn't very competent in lots of these things. If you look at DeWitt's report on the whole thing, I think his Final Report, he says that the Japanese, some Japanese, somewhere were signalling out to the submarines floating around out in California, and therefore as soon as one of our ships went out they torpedoed them. Larry Fly was chairman of the Federal Communications Commission, and the Federal Communications Commission had been policing this kind of thing for a long time and was extremely experienced, and Fly said it was absolute nonsense.

He said the Army didn't have any fellows who knew how to do it. But this again got in the newspapers and got everybody nervous. And I don't know whether you can ever say that hysteria is honest, but I think it was honest hysteria; people were scared to death.

COMMISSIONER MITCHELL: I wonder if you would comment briefly on the propaganda situation of the day? There is one compilation of the editorials in the California press; from December 8th to 14th there were 31 editorials favorable of the Japanese; from March 2nd to 8th of 42, there were two favorable of the Japanese and 34 unfavorable. What were the factors that entered into that? Was it all the propaganda in California, was it the military?

MR. ROWE: Think it was mostly the propaganda in California spreading across the country. There was agitation and there was, well I think in all fairness we should say there was this picture of this civil liberties Attorney General who wouldn't do anything to anybody, and therefore he was responsible for all these things, and they had to get rid of him before anybody could be forceful.

And Biddle was a pretty stubborn fellow. He wasn't going to move. These are deceptive things; for instance all the mail we got, we just thought we were catching hell every time we looked at the mail coming into the Department of Justice. Mr. Grodzins, who I think wrote the best book on the subject, and the reason I think it was such a good book,

he called it The American Betrayal or Americans Betrayed. He was a bright young Ph.D. right out of the University of Chicago, and three weeks after all this happened he walked into Washington, through the Department of Justice files, the Army files, and therefore it was very refreshing. But I remember him telling me once, "You know that mail you said was so heavy, and giving you so much trouble? You go down and look at the files and it's not that bad."

So our perception of everybody in the country against us might not have been correct.

COMMISSIONER MITCHELL: Just one other local question. In 1942 or '41, the Japanese where they were retainers in the Cascade Club in Everett, Washington, and immediately after or soon after Pearl Harbor, the story went around the street that all of those people were spies for the Japanese Government. And my question is, was any Japanese convicted?

MR. ROWE: I'm almost sure none were indicted, but I can't remember -- I go back 40 years, everybody's memory is not good, but I don't think anybody was indicted of Japanese. We did indict Germans and Italians and sent them to jail, but I don't think there was any espionage or sabotage by the Japanese, American citizens or aliens, and no one ever proved it. Everybody said it was true.

COMMISSIONER GOLDBERG: Franklin Roosevelt addressed the DAR and remember his famous phrase, he said, "Fellow Aliens and Fellow Immigrants."

COMMISSIONER MITCHELL: Madam Chaiman, just one other question.

Do you believe and can you recommend -- it is probably two questions -- what this Commission should recommend in the way of an apology or in the way of reparations?

MR. ROWE: I read the Post this morning and I saw I was quoted as saying I was against reparations. And I think I did say that. I don't really have an opinion on that. I would hate to have the job of working it out. If the Japanese Americans want an apology, they are entitled to one.

COMMISSIONER MITCHELL: When you say good, you mean they are certainly due an apology?

MR. ROWE: That's right. What good will it do them 40 years later? I don't know.

COMMISSIONER GOLDBERG: Wouldn't you want it for your children and grandchildren if you were accused of being disloyal?

MR. ROWE: You mean if I was in --

COMMISSIONER GOLDBERG: You and I have reached the age where we brush it off.

MR. ROWE: Yes.

COMMISSIONER GOLDBERG: But wouldn't you, if you had in effect been accused of disloyalty and evacuated, wouldn't you want for your children and grandchildren a statement by our government that we were mistaken, we were wrong, we apologize?

MR. ROWE: I think that's fine. I still don't know what good it will do. You know the time for saying all that was 40 years ago, not today.

COMMISSIONER MARUTANI: More importantly, Mr. Rowe, will an apology deter this kind of action in the future for any American against any matter? Do you think that would be an effective deterrent, saying, "Whoops, I'm sorry?"

MR. ROWE: I don't know. Abraham Lincoln suspended habeas corpus. I think in wartime, times get tough.

COMMISSIONER GOLDBERG: But the Supreme Court reversed that.

MR. ROWE: Yes. The Supreme Court even took back some of the Korematsu case, Mr. Justice. It won't do any harm. Again, as my cynical nature keeps creeping out, I'm not sure it will do much good.

COMMISSIONER MARUTANI: Indeed, wouldn't you way that if you let it go with "I'm sorry" this may divert any kind of meaningful gesture, you would fill the vacuum for a meaningful gesture that indeed I'm sorry.

MR. ROWE: What was a meaningful gesture?

COMMISSIONER MARUTANI: Something else other than just words.

MR. ROWE: I don't really have an opinion on that.

COMMISSIONER MARUTANI: While I'm at it sir, I would like to ask one other question. You were there, you were involved, you saw what happened. What should be done?

What should this Commission recommend that this sort of thing does not happen again, or will be very hard to happen? You point out that the Attorney General was a very understanding liberal Attorney General; it could have been even worse, I suppose, if we did not have Mr. Biddle there; and I guess since then we have had some attorney generals who may very well fit that category. What should this Commission recommend to see that we do not have a recurrence of this type of infringement upon fellow citizens?

MR. ROWE: Well, I would remind people about the Bill of Rights. I'm not sure we get it when we need it. I'm probably too cynical this morning. I don't know what you could do except emphasize [them] and get attention. . . get public attention; and it is a precedent in a way, you know when the problem comes up we will remember the Japanese and what a mess we made of that, and to an innocent people. I'm not quite sure what your charter is, what you're supposed to be doing anyway.

CHAIR BERNSTEIN: Are there further questions among the Commissioners?

I'm sorry, Father, please.

COMMISSIONER GROMOFF: What made the people involved in Order 9066 to use this order to intern Japanese Americans? My question is, was it military necessity or political reasons that they were put away?

MR. ROWE: I never saw any military necessity. As it was pointed out to me a great number of times, I was a lawyer, and I had no military knowledge, nor competence. I don't think it was military necessity, and it seemed to me perfectly clear. Now General DeWitt himself had been a competent combat man in World War I. Colonel Bendetsen was a lawyer like me; he wore a uniform. Jack McCloy was a lawyer like me; he didn't wear a uniform. So I don't really know what they knew about military necessity, and I don't think it was political reasons, I think, because I get back to my theme song today; I think it was hysteria and fear, which are dreadful things.

CHAIR BERNSTEIN: Are there further questions?

If not, Mr. Rowe, I would like to thank you on behalf of the Commission for both your cooperation and you great candor this morning.

I would also like to ask since we are at the very beginning of our inquiry, and flushing out our mandate of this inquiry, whether we may come back to you and ask if you would answer further questions if that becomes appropriate in the future?

MR. ROWE: I'll be glad to.

CHAIR BERNSTEIN: Thank you.

MR. ROWE: Thank you.

CHAIR BERNSTEIN: The Chair declares a 10-minute recess. Please come back promptly.

CHAIR BERNSTEIN: Will the Commission please come to order. Will you all please take your seats?

The next witness has already taken his seat at the witness table. He is Leland Barrows of Washington, D.C., he was formerly Assistant Director of Administrative Management of the War Relocation Authority in 1942. Mr. Barrows, thank you for coming before us this morning. Will you proceed?

STATEMENT OF MR. LELAND BARROWS

MR. BARROWS: Thank you.

CHAIR BERNSTEIN: Excuse me, Mr. Barrows, would you make sure to speak into the microphone? I'd like to ask the Commissioners to make sure they are also speaking into the mike. Both the court reporter and others in the audience said they had some difficulty in hearing the earlier witnesses. Thank you.

MR. BARROWS: I was invited to speak here because my old friend and former chief, Dillon Myer, who directed the War Relocation Authority during all but the first three months of its existence, is unable to be here. He would be very much the best person to talk with you about this matter, but I'll do the best I can to supply information. I've prepared a statement in writing which although condensed and sketchy, and far too condensed and sketchy to do justice to the subject, is still too long to read, so I'll summarize that even further, and then you may ask me to fill in the gaps and I'll do my best.

THE WAR RELOCATION AUTHORITY

Statement by Leland Barrows
Former Assistant Director for Administrative Management

I was invited to speak to you this afternoon about the work of the War Relocation Authority because my long-time friend and former chief, Dillon S. Myer, who directed the War Relocation Authority during all but the first three months of its existence, is unable to appear. He would be by far the best person to talk with about this extraordinary, and I hope unique, American experience. In his absence I shall do my best, first in a brief opening statement and then in response to your questions, to give you some understanding of the War Relocation Authority and the war-time task it performed.

The War Relocation Authority (which I shall refer to heareafter as WRA) was established on March 18, 1942, by authority of Executive Order 9102, as an independent agency in the Executive Office of the President. Milton S. Eisenhower was named Director. He made several of his earliest staff selections from among people with whom he had worked in the Department of Agriculture. I was in the first group recruited, and was chosen to serve as Assistant Director for Administrative Management. Although the staff worked as a collegial body, I was directly responsible for administrative planning, budgeting, finance, personnel administration and related functions. Within ten days after the Authority was established it was asked to submit a formal budget

proposal to the Bureau of the Budget. The urgency of the situation, in any case, forced WRA to make prompt organization and policy decisions. We used the budget to formalize and articulate those decisions. Throughout WRA's existence the budget remained a day-to-day guide to management.

In this discussion I shall necessarily draw heavily upon personal recollections, although I realize, as you do, that one person's memory of events which occurred nearly forty years ago would provide a very incomplete and perhaps misleading picture. Moreover, I left WRA in 1944 to enter the United States Coast Guard. Since much of my duty was in Washington, however, I kept in touch with my former colleagues, and have some first-hand knowledge of the period after I left. In the two weeks since I was asked to meet with you I have done as much as possible to refresh my memory and to fill the gaps in my knowledge. I have talked with former associates and found two sources of written material which were especially useful.

Sources of Information

Ten years ago Dillon Myer published Uprooted Americans, a candid personal review of the work of WRA, well-documented and factual. More detailed and complete, and, because they are official documents written close to the events likely to be expecially useful to this commission, is a series of closing reports written by members of the WRA staff in 1945 and 1946. These ten

documents deal with every aspect of WRA work, and of the impact of evacuation and relocation upon the Japanese American population. They are comprehensive, detailed, honest and frank. A careful examination of these reports, which are in my experience unique among government publications, would give this commission a better understanding of WRA's role in the experience you are examining than you could obtain from any other source.

Establishment of the War Relocation Authority

WRA was established to care for, supervise and relocate the people of Japanese ancestry who were forced by military order to leave their homes on the Pacific coast of the United States. It had no part in the evacuation decision. The first and basic exclusion order was issued by Lieutenant General DeWitt, Commanding General of the Western Defense Command, on March 2, 1942, two weeks before Executive Order 9102 established WRA. At first the affected people were encouraged to leave voluntarily. Many thousands did, but the largest group merely moved to the interior of California from where they were later evacuated to relocation centers when on June 2, 1942 the exclusion area was extended to include all of California.

It became evident almost at once that the vast majority of the evacuees had no means and little inclination to relocate voluntarily, and no place to go. Many who did leave, commonly by automobile, encountered

hostility and threats to their safety. It became clear that the federal government would have to assume responsibility for moving the people, caring for them, housing them and assuring their protection. On March 27, 1942, by military order, voluntary movement was suspended. Thereafter all evacuees were moved by the government, first to Assembly Centers operated by the Army, later directly to Relocation Centers.

Nevertheless, as WRA took form and prepared to assume its responsibilities, Director Eisenhower still hoped to distribute many evacuees widely in private employment, particularly in the western states. A national sugar shortage was in prospect, and the big sugar producers were eager to recruit evacuee labor. On April 7, 1942, Eisenhower and Colonel Karl Bendetsen, who handled evacuation for General DeWitt, met with governors and other representatives of ten western states in an effort to gain their support of the idea. By a large majority they overwhelmingly rejected it and made it clear that the government would have to support and maintain the evacuees in government centers indefinitely.

WRA immediately began the task of finding sites and arranging for the necessary construction by the Army. Nine centers were needed, in addition to Manzanar, an Army Assembly Center which was transferred to WRA on June 1, 1942. All except two in Arkansas were established in the mountain states, generally on public land with agricultural potential and away from cities and strategic

installations. They ranged in population from seven to nineteen thousand at the peak.

The Relocation Centers

Physically the Relocation Centers were typical temporary Army camps of wooden construction. The basic unit was the block, consisting of ten barracks grouped around a mess hall where all food was served. For evacuee use each barracks building was roughly partitioned into family apartments. Each block had 250 or more inhabitants. There was an inevitable lack of privacy; communal feeding made normal family cohesion difficult to maintain. There was a hospital in each center, generally a typical 200 bed Army hospital with multiple wooden buildings connected by long covered walk-ways. There was a fire station with equipment, and offices and quarters for the administrative staff which varied in number from 135 to 275 people. Schools were provided through high school, and were accredited in the states in which the centers were established. Each center developed a newspaper. A legal office, headed by an appointed member of the WRA Solicitor's staff provided legal services to the evacuees as well as advice to the center director.

Efforts to establish industrial employment and production in the centers met with very limited success. Agriculture was more successful, but seldom went beyond production for local use and transfer to other centers. Center operations - operating kitchens and mess halls,

working in community and administrative offices, teaching school, and the other manifold activities of the community provided the bulk of evacuee employment. Pay was set at $12, $16 or $19 per month, deliberately fixed below the $21 per month pay of army privates. The nature of the job determined the rate of pay. After a time a clothing allowance of a few dollars a month was added for each family member. The pressure to spread the available work was so great that over-staffing became endemic, threatening to subvert the traditional work-ethic of the Japanese Americans.

Responsibility for feeding the evacuees gave WRA some of its most serious administrative, public relations and ultimately political problems. Mess hall operation and food supply were important in maintaining community morale. Center feeding was subject to frequent public criticism. With the nation subject to recurrent food shortages and governed by ration boards, it was easy for communities near centers to blame all their food problems on the "Jap Camps". Now and then the issue would go national, reaching a high point in the Denver Post-Dies Committee investigation of the Heart Mountain Center. At the same time, because they held Issei who were technically citizens of Japan the centers were governed by the Geneva Accords on the treatment of prisoners of war, and were subject to periodic inspection by representatives of the Spanish Embassy which handled Japanese interests in the United States. WRA spent an inordinate amount of time

and energy trying to explain to press, public and Congress that it limited food costs to 45¢ per person per day, observed all rationing regulations, and bought only standard grades of food. It also, of course, pointed to the foodstuffs the centers produced for their own use.

Community councils, composed of a representative from each block, were established in the centers. Efforts were made to vest significant responsibility in the councils, and most of them performed effective and essential work. They were immediately responsible for the maintenance of law and order, for example, and for the trial and punishment of misdeeds which were less than felonies under local state law. But their power was, after all, subject to the over-riding authority of the center directors. Despite a constant effort to make the Relocation Centers self-reliant and as free internally as possible, they remained administered communities. Around them were the barbed wire fences, the watch towers and the military police, constant reminders that the centers could not be truly normal American cities.

Leave Clearance and Relocation

Director Myer speedily reached this conclusion, and for that and other reasons he decided that WRA should shift its emphasis from center operations to the relocation of individual evacuees anywhere in the United States from which the military orders did not exclude them. Thus began what WRA believed was the most

constructive aspect of its task. WRA had had success in granting temporary leave to groups of evacuees for seasonal work in agricultural areas of the West. But indefinite leave of individuals presented new problems. WRA would have liked simply to open the doors and allow evacuees to leave at will and to resettle anywhere they liked outside the exclusion area. But the Director saw that such a policy, although simple, would not be feasible. He concluded that WRA could not thus abruptly relinquish responsibility for the evacuees without risking a widespread public reaction which would make relocation difficult, perhaps impossible. He issued basic leave regulations which required all evacuees who wished to relocate to satisfy WRA as to their loyalty, as to the availability of employment at the destinations they had chosen and as to their ability to finance their travel. Later WRA granted travel and limited subsistence allowances.

As relocation became the main objective of WRA's effort, relocation offices were established throughout the country, eventually totalling 47 outside the exclusion area. A "community invitation" system replaced the requirement of individual employment commitments. Sympathetic local people and organizations were found to help the relocating evacuees find housing, schooling and employment, and to smoothe their entrance into life in new communities. No evacuee in the centers was obliged to relocate, but every encouragement was given the evacuees

to do so. WRA was convinced that the longer the evacuees remained in centers, the more difficult and less certain their eventual reestablishment in normal American life would be.

Japanese Americans in the Armed Forces

At the time of Pearl Harbor some 6,000 Japanese Americans were serving in the armed forces. Most of them were discharged, recruitment of Japanese Americans was suspended, and they were exempted from conscription, first as 4F and later as a special category, 4C. WRA believed, as did many Japanese Americans, that these discriminations, although in a sense equitable, would become a powerful anti-Japenese argument in the hands of the racists. From the beginning WRA urged that the bar be lifted. There was also opposition to the restrictions from army officers in Hawaii where there was an all-Nisei National Guard infantry battalion ready to serve, and other Nisei who wished to volunteer. And as an exception to the general rule, Army Intelligence began the recruitment of Nisei with Japanese language skills for special training and service in the war against Japan.

Key officials of the War Department also felt that the bar against Nisei military service should be lifted. On January 28, 1943 plans were announced to form an all-Nisei Combat team to be made up of men recruited in the relocation centers and in Hawaii. WRA welcomed the announcement although it at first had misgivings about the

segregated charcter of the unit. The Army proposed to obtain a questionnaire from each Nisei male of military age. Detailed information on each individual's background and an affirmative declaration of loyalty were to be requested of each registrant. WRA agreed to cooperate, suggested changes in procedure, and, seeing the mass registration as a way to obtain quickly the background information on the evacuees which would be necessary for granting leave clearance, proposed extending the registration to all adults.

Hurried by the military time-table, WRA's preparation for registration was inadequate. The effectiveness of its administration varied from center to center. One serious error of general impact was quickly discovered. Many Issei, ineligible by law to become American citizens, refused to sign the loyalty oath. Four days after the start of registration WRA authorized a substitute question for Issei which merely committed them not to take any action harmful to the United States. In only one center, Tule Lake, was there effective, organized opposition to registration. There, more than 4,200 refused to answer or said "no" to the loyalty question. Only 59 of the Nisei volunteered for military service. The registration period was one of the most turbulent in WRA history. Nevertheless, once the confusion had passed, the information obtained, greatly accelerated the relocation process.

The brilliant and heroic record of the 442nd Combat Team demonstrated beyond question the value to the evacuees of reopening military service. As the Team fought its way up the Italian peninsula and across eastern France it dramatized in a way nothing else could have done, the loyalty of the Japanese Americans and the ironic injustice of their evacuation. WRA was convinced that this was not enough, and that if the Nisei went through the war exempt from conscription the stigma would be an inescapable future burden. WRA continued to urge restoration of the draft and was supported in its view by the Japanese American Citizens League. Restoration of the Nisei to normal Selective Service status was announced on January 21, 1944. Once again some evacuees understandably resisted, but generally the decision was accepted. Nearly 2,800 Nisei were inducted from the centers after January 1944.

Resurgence of Racial Hostility

For a few months after the evacuation was completed, the racist critics of the Japanese Americans were comparatively quiet. They had seen the population removed and confined in camps from which many hoped and some believed they would be shipped to Japan at the end of the war. When they learned that WRA intended as rapidly as possible to release the evacuees to those parts of the country from which they were not excluded, and to take every other means at its command to regain full status as

Americans for the evacuees, they began to direct their fire against WRA as an organization. There had always been the feeling among the hostile element that the evacuees should have been kept under military control after the initial evacuation. So the campaign against WRA took the form of demands that it be replaced by some other agency, commonly the Army.

Ordinary criticisms such as any governmental agency might receive WRA could deal with by explanation or corrective action. But it was constantly faced with sensational charges that it was "coddling, pampering or over-feeding" the evacuees in the centers, or that its relocation program was turning "spies and saboteurs" loose upon the American people. There were both hostile press campaigns and Congressional investigations which gained nation-wide publicity. The Scripps-Howard press carried a series of sensational stories based upon wild and unfounded charges made by employees of a construction contractor at one of the Arkansas centers.

Ostensibly in response to a proposed bill introduced by Senator Wallgren of Washington to transfer WRA's functions to the War Department, a subcommittee of the Senate Armed Services Committee under Senator Chandler of Kentucky made a well-publicized investigative visit to centers in California, Arizona and Arkansas. After a burst of negative publicity, the subcommittee, blocked from the transfer idea by vigorous War Department opposition, made only three recommendations:

(1) restoration of the draft for Japanese Americans, (2) Speeding the release of evacuees for work outside the centers, and (3) separation of loyal from disloyal evacuees.

In January 1943 the publisher of the Denver Post told a WRA officer that he regarded all people of Japanese descent as enemies of the United States and that the news and editorial policies of the paper would reflect that fact. In May, the paper began a campaign with a report that the staple food warehouses of the Heart Mountain center were heavily over-stocked. Unfortunately, because of errors both by the Army Quartermaster Corps and the center management, there was some truth to the story. The newspaper never pointed out, however, that in the actual use of food the center followed food rationing rules strictly, and that the overstocking could easily be cured by transfer of surplus stocks to other centers. More serious than the stories themselves was the fact that at this point a subcommittee of the Dies Committee under Congressman Costello from California began a long, sensationally publicized investigation which drew heavily upon stories supplied by the Denver Post reporters.

The Dies Committee

In May 1943 two investigators of the Dies Committee paid an unannounced visit to the Manzanar center and questioned the senior staff at length. On June 8, 1943 the subcommittee began a nine-day series of hearings in

Los Angeles, giving ample attention to the charges of several employees who had been discharged from the Poston center for incompetence. The sessions were in executive session, but at the end of each day produced some sort of sensational story for the press. A reporter for the Hearst press, was stationed in Washington apparently for the purpose of writing inflammatory stories about the WRA and the evacuees. For more than a month the senior officials of WRA spent most of their time running down the facts to answer the wild stories purporing to come from the committee.

Finally, on July 6, 1942 the WRA Director was given the chance to tell his story to the subcommittee. He had a reasonable chance to explain the relocation program, answer the most important charges against WRA, and expose the unreliability of some of the key witnesses on whom the subcommittee had relied. After all the furor, the subcommittee made only three recommendations: (1) that WRA proceed rapidly with segregation, (2) that leave clearance be taken from WRA and put in the hands of a special board, and (3) that WRA launch an Americanization program in the centers. One member, Congressman Herman P. Eberharter of Pennsylvania dissented, charging his colleagues with prejudice and with making statements most of which were unproven. On this occasion, and in a later dissent to a second critical report the committee filed following the Tule Lake incident, Mr. Eberharter showed a

kind of fairness, freedom from prejudice, and courage which was all too rare in those days.

Segregation

For several months thereafter WRA was relatively free from attack. Then came the Tule Lake incident, the worst public relations and one of the most difficult evacuee community relations problems with which WRA ever had to deal. It was precipitated by the segregation program. Segregation was a term used to identify the sorting out of people known to be loyal to Japan or believed to present a security risk to the United States from the rest of the population. If segregation had been undertaken before evacuation, with only the segregants being evacuated and the rest left to continue their lives in place, it might have been a constructive exercise. But once all evacuees had been moved to relocation centers, segregation seemed to WRA certain to have harmful consequences which might easily outweigh its benefits. Pressure for segregation was continuous, and that which came from security sources was particularly hard to resist.

WRA always recognized that there were elements among the evacuees who were of doubtful loyalty. It also knew, however, that the alien Japanese believed by the security authorities to be really dangerous had been interned at the beginning of the war. It had learned that the Kibei, a group especially suspected by Naval Intelligence, was far from homogeneous, and included some of the most

patriotic Americans in the centers. It also recognized that much of the disaffection in the centers was simply the natural reaction of spirited people to the way they had been treated. Nevertheless, when the Project Directors and Evacuee Councils began to favor segregation as a way of reducing tensions in the centers, WRA decided to move.

No facilities for a segregation center could be found outside the existing centers. An inevitably disturbing move was made worse by the necessity to use an existing center, move out the regular evacuees and move in the segregants. Tule Lake was chosen because it could accommodate the expected population, it had abundant agricultural land, and it contained the largest number of potential segregants. The major segregation moves were made between the middle of September and the Middle of October, 1943. Four categories of people were segregated: (1) Those who had requested repatriation to Japan, (2) Those who had said "no" to the loyalty question during the mass registration and declined in individual hearings to change their decision, (3) Evacuees denied leave clearance for cause, and (4) Family members of the first three groups. There was to be no leave from the segregation center and only limited self government. It is obvious that the segregation process destroyed the normal social structure of the Tule Lake community and left only a varied group which soon broke into factions. The project administration was unprepared to substitute for the

community structure upon which it had come to rely, and perhaps did not realize the extent to which conditions had been changed.

The Tule Lake Troubles

Trouble began as a result of a truck accident in which several agricultural workers were injured and one died. A dissident group seized upon the incident to demand that Tule Lake cease to produce food for other centers. A general farm strike followed. Faced with the urgent neccessity to save crops ready for harvest and needed at other centers, WRA brought workers from other centers to complete the work. On October 26, 1943 a committee claiming to be representative met with the center director to demand a "resegregation" within the center, separating the truly pro-Japanese from others who, the committee said, had chosen segregation to avoid relocation or conscription. They also asked the food production for other centers be stopped. The director agreed to the second request but rejected the other recommendations.

On November 1, Director Myer visited the center for conference with the center staff and for a scheduled meeting with evacuee representatives. The day before the scheduled meeting a large crowd gathered outside the project director's office. They demanded that a committee meet with the national director. After pointing out that he was planning to meet them the next day, Mr. Myer met

with essentially the same group which had met the center director the week before. They repeated the requests they had previously made and added that the center director and other staff should be removed. Mr. Myer refused to accede to pressure, but said the center director would give full consideration to their proposals as soon as possible. While this meeting was going on, a controversy in which blows were exchanged broke out between a group of evacuees and the center medical director. Investigation established no connection between the two events but reports outside the center soon described the two as evidence of a plot and the breakdown of order.

Tule Lake was calm for two days after the national director left the center to continue his tour of inspection. Then, without warning, on the night of November 4 a well-organized group of young men armed with clubs moved into the administrative area in an attempt to prevent food from being removed from the warehouses for the volunteer harvest workers from the other centers. An member of the internal security staff member was injured, and the crowd began to move toward the center director's residence. The military police from the perimeter guard were called in and the center came under military control. It did not return to WRA control until January 1944.

Then WRA found the Tule Lake community split into factions and the entire work force on strike. Months of careful effort, which began with a back-to-work movement, were required to regain a measure of evacuee confidence.

On July 1, 1944, the president approved an amendment to the nationality code to permit renunciation of citizenship. The amendment, although general in language was obviously intended for the Nisei. The Justice Department began renunciation hearings in Tule Lake late in November, just as the Army was preparing to lift the exclusion orders on the Pacific coast. Thus once more external forces brought tensions to the center. In the abnormal atmosphere of Tule Lake, nearly 5,500 people signed renunciation applications. Some, later withdrew their applications, but 4,300 men, women, and children from Tule Lake eventually went to Japan.

The impact of the Tule Lake troubles outside the center was in some ways even more serious. The facts were distrubing enough, but the versions which circulated in the press and by word of mouth were much worse. WRA's credibility was seriously impaired by a breakdown in communications during the trouble and by inability to report on the center during the period of military administration. The Dies Committee resumed investigation, a committee of California launched an investigation, and several individual Congressmen got into the act. Most saddening to WRA was a scathing editorial attack by the San Francisco Chronicle, a paper which had always been fair and supportive of WRA and the Japanese Americans. Among many critical proposals was a recommendation to transfer WRA functions to the Department of Justice. WRA had clearly become a national political issue. On

February 16, 1944, it was transferred by executive order to the Department of Interior.

Beginning of the End

As the year 1944 progressed, WRA concentrated more and more on relocation and began to look forward, and to push quietly for the lifting of the exclusion orders. As Americans throughout the country came to know Japanese Americans personally, the ignorance which was the root of their fears began to disappear. The glorious record of the Nisei soldiers in Europe won acceptance and goodwill for all Japanese Americans. Although there were certain favored centers, Chicago, Denver and Salt Lake City, for example, everyone of the 48 states except South Carolina received some relocated evacuees.

The Last Problem - Closing the Centers

On December 18, 1944, the day after the Army revoked the mass exclusion orders, WRA announced that all relocation centers would be closed sometime between six months and one year after January 2, 1945, the actual effective date of the revocation. This launched WRA into a comprehensive liquidation effort and confronted it with its last major public relations problem. Few of the evacuees greeted the announcement with enthusiasm; many were apathetic; some were hostile. As evacuees began to trickle back to their former homes, some encountered the

old racial hostility. To help deal with the problem WRA established relocation offices in the former exclusion area. It had invaluable help in overcoming prejudice from a group of white military officers who had served with the Nisei and who went up and down California speaking on behalf of the returning evacuees.

Many of the evacuees simply did not wish to leave. WRA recognized that some, particulary several hundred bachelor Issei, would require help to become reestablished, and in some cases might become public charges. But the WRA Director was convinced that the centers would have to be closed and the population returned to normal communities, or they risked becoming permanent wards of the federal government. Organized opposition to WRA liquidation plans developed, supported by some who had previously been among WRA's strongest supporters, good people who thought it heartless to force evacuees to move. Organized opposition, especially in the Los Angeles area, came also from Nisei who had already returned and were reluctant to assume the family burdens which center liquidation might bring them. On the other hand, WRA had to fix a firm schedule well in advance in order to obtain the necessary trains from the overloaded transportation network. All of these problems were somehow solved, the evacuees were all relocated, and the centers were closed on time.

WRA never saw its responsibility as limited to the "removal . . .relocation, maintenance, and supervision" of

the evacuees. It felt the duty to do everything within its power to mitigate the harm done by exclusion and to help the Japanese Americans regain the rights and status of Americans. Within the limits set by the atmosphere of the time and the military necessities of global war, it took every important decision and planned every action with that goal in mind.

With the closing of the centers WRA's basic work was done. One task it was obliged to leave unfinished - development of a procedure for compensating evacuees for property lost because of being required to move. As one of its last acts, WRA drafted proposed legislation establishing a claims procedure and vesting its administration in the Department of the Interior. I understand that when such a bill was passed the task of administration was given to the Department of Justice.

Looking back upon the relocation experience WRA feels it can point to at least one constructive consequence. Of the 110,000 people who were in the relocation centers only a few more than half returned to the areas from which they were evacuated. The remainder found homes throughout the United States. This wide dissemination, I am convinced, has helped to give the Americans of Japanese descent, the secure and respected place they now occupy in American society.

The War Relocation Authority, and I will call it hereafter WRA because that's the way we always knew it, was established on March 18, 1942 by Executive Order 9102. We were an independent agency established in the Executive Office of the President. Milton S. Eisenhower was named Director. Milton picked his initial staff of principal assistants from people, largely from people he worked with in the Department of Agriculture, and I was in that first group. I was chosen to handle what became known as Administrative Management, that is, budget, organization, planning, personnel, the logistics, and all that sort of thing. But we always worked as a collegial group, so that we pretty well shared most of the basic decisions. Within ten days, I would like to mention, after we were established, the Budget Bureau asked for a budget, so we used the budget-making process, along with the policy-deciding process to help do the planning for the authority, and, in fact, the budget remained a planning guide throughout our existence.

Now I have to draw on my memory, which is no better than anyone else's, I'm sure, going back 40 years, and it would be incomplete and perhaps misleading if that's all I relied on. I've looked around for additional information, and I've found two books which I think are very useful. The first is a book written by Dillon Myer

ten years ago called Uprooted Americans; it's a factual book; it's candid, it gives valuable personal judgments.

But even more valuable, I think, for the purposes of this Commission, is a series of final reports which WRA prepared before it went out of existence. They were written in 1945 and 1946. They cover every aspect of the work of the Authority, and of the impact of evacuation and relocation upon the Japanese American people.

I don't think you could find a better single source of information. The WRA reports have the advantage of being timely and official; it's what the people who did the job had to say about it. Now, obviously, other things have been written since, which may add new information, new insights, and are subject sometimes to the customary distortion of time. But I call your attention particularly to this one volume in the series. It's called WRA, A History of Human Conservation. It's very well written, I might add, and very readable.

WRA, I want to say, had no part in the evacuation decision which you've heard about. The first basic exclusion order was issued two weeks before we came into existence. At first the people were encouraged to leave the exclusion area voluntarily; a good many thousand did; but, about half the number, about 5,000 merely moved over the line in California, into an area from which they were subsequently evacuated to relocation centers.

Moreover, it was perfectly clear that most of them didn't have the means to move or the inclination to move, or they didn't know where to go. And those who did move voluntarily ran into hostility of all sorts. So it was necessary (and WRA did participate in this decision) to stop the voluntary movement, and that was done by military order on March 27th.

Still, although voluntary movement stopped, Mr. Eisenhower, who was then the director, hoped that he could find voluntary locations for people.

COMMISSIONER GOLDBERG: That was Milton Eisenhower?

MR. BARROWS: Yes, Milton Eisenhower. He hoped he could find or take advantage of the heavy demand in the interior of the country for labor, agricultural labor for which many of the evacuees, although by no means all, were well qualified. In fact, during 1942, from the relocation centers and from the assembly centers which were first set up by the Army, some 10,000 people went out on private employment. Now, they were single men, I guess almost exclusively, and most of them returned to the centers, but some did go on into other situations.

Eisenhower and Colonel Karl Bendetsen met with the representatives of all the western states except, I think, New Mexico, in Salt Lake City on April 7, 1942, and tried to sell the idea of a dispersed movement of people, largely with private sponsorship, and they were met with

an almost unanimous opposition. So they gave up the thought and decided that people would simply have to be moved to some kind of public shelter.

Now, at the same time, the Army was insisting that any camp supplied for this purpose had to have a population of at least 5,000 because they were -- everyone accepted that they would have to be surrounded by military guards, and they couldn't provide military police for smaller groups.

So, WRA took on the task of finding places to put the people.

COMMISSIONER GOLDBERG: Excuse me for interrupting, but why was it necessary to have military guards, in your opinion? I know that you were not responsible for that.

MR. BARROWS: Well, I think that first of all, the resistance in the communities where we were proposing to put the centers would have caused trouble everywhere. There was a great deal of feeling, irrational, largely arising in the interior from ignorance. You see, the Japanese Americans, unfortunately, had been so heavily concentrated in the few locations on the coast, that nobody knows them or knew them as they do now. At any rate, that was the decision and, therefore, centers were located. We had to have ten in all; one of them was the Manzanar Assembly Center which the military had established as a temporary shelter, and the remainder were located -- two in Arkansas and the rest in the mountain states. They ranged in population from 7 to 19,000 people.

The moves to these centers took virtually all of 1942, and the last moves were completed to a center in Arkansas on November 3rd. Meanwhile, the bulk of the population was held in temporary shelters operated by WCCA, the Civil Control Branch, which Colonel Bendetsen headed.

Now, physically, the relocation centers were army camps, temporary construction, wood and tarpaper. The basic unit of organization was the block with a mess hall surrounded by ten barracks, each block holding about 250 or more people. Food was supplied in mess halls; family feeding, family table, family kitchens came to an end. And there was very, very little privacy in the centers, particularly at the first. Some of the centers, before they were anywhere near completed had to receive evacuees, so everything was improvised.

There was a hospital in each center, an army hospital with 200 beds, a fire station, staff offices and so on; schools were provided, while they were improvised, as everything else was at first, and they probably never were up to standard. We did arrange to have them accredited in the states where the centers were established, so that the children would have something to tie to with the outside.

COMMISSIONER GOLDBERG: To what level?

MR. BARROWS: Through high school.

COMMISSIONER GOLDBERG: Suppose someone wanted to go to the University, what happened?

MR. BARROWS: Well, that would come up later under the leave program; but in the initial evacuation, a few, perhaps a hundred, I don't know how many, I've not been able to find the figure, were evacuated directly from west coast universities to universities in other parts of the country.

COMMISSIONER GOLDBERG: But, I mean, what about graduates of high school?

MR. BARROWS: Well, I think that would be a matter that was taken care of by what we called the Leave Program later.

Every center had an appointed Caucasian staff. We didn't like the term because we didn't especially like racial terms, but we were the Caucasians. Each center had a Caucasian staff of 135 to 275 people, all depending on the size of the center.

Now we tried to provide employment. For a time it was assumed -- there was always a certain pulling between centers as war duration communities and centers as a base for relocation which they became later. And we tried to provide employment by inducing private or other industrial production, and having agriculture. None of it was very successful. The agriculture was more successful than industry, which we soon gave up completely. But agriculture never did much more than feed the centers and provide a little surplus for transfer to other centers.

Employment really became all the tasks of running the centers, mess hall work and everything; and that's what most of the evacuees were doing. For that they received a pay of $12, $16, or $19 a month, fixed below the pay of an Army private at the time. And, of course, the variation depended on the kind of work they did; the top lawyers and doctors got $19 and I don't really know who got the $12.

A little later, a clothing allowance per person was added, $2 or $3 a month. One of the consequences of the situation was that to provide employment overstaffing became endemic and was having a bad impact upon what had previously been notably industrious people.

Now, feeding the people also caused a lot of administrative problems, mainly public relations problems on the outside. We were going into the rationing period of the war. There were shortages, and it became popular around every center to blame every local shortage on the Japanese. We had to constantly explain that we followed the rationing rules, that we bought only standard grades of food, that we were limited to 45 cents per day per person for feeding, which was again based upon the Army ration.

I might add that the centers were never able to eat up that much because the ration of troups in training was simply more in quantity than a mixed community of men, women and children could consume.

But we got so much criticism, and I'll come back to that a little later. We were subject also, because the Issei were, after all, aliens, to the Geneva Accords on Prisoners of War. So we were visited from time to time by representatives of the Spanish Embassy, who never found anything unfavorable to report, so far as I know.

We tried to promote self government. There were community councils. It's a long a complicated story, and it varied from center to center. In general, I would say that the councils did a great deal to organize and provide some social structure and the essential community sense of identity, and you may say discipline, as well, because they did, in fact, exercise legal disciplinary authority. But they were, after all, subject to the overriding authority of the center administration. They were in communities surrounded by barbed wire and watch towers and military police. You could never get away from the fact that they were administered, controlled communities.

When Mr. Myer took over the direction of the Authority (in June, I believe it was), he took his first trip to the centers. He concluded they were not going to be suitable places to keep people, and decided that we should begin the process of finding ways for the evacuees to move out permanently to those parts of the country from which they were not excluded. This began what he believed and I believe was the constructive part of the WRA job.

The temporary leave experience in the West was helpful, but sending temporary labor, men only, is one thing; bringing families was quite another. The way had to be prepared, we felt; the communities had to be found. At any rate, after a period of time in October of '42, basic leave regulations were issued. Actually, Mr. Myer, in his book, said that he proposed to the Solicitor General simply opening the gates and letting people go. Believing that such a policy would not be concurred with, he had with him the proposed leave regulations which carry with them the explicit assertion of the right of detention. He said, "All right, if we're to follow this procedure, then will you defend the legality of these actions if they are challenged," and the Solicitor General said that he would.

I won't try to comment further on the Constitutional ramifications which were discussed by the previous witness and are better known by a lot of you than by me anyway, but at any rate, we were conscious, even then, that, although it seemed desirable for us to retain at least a kind of constructive control over the evacuees for various public relations purposes, there were legal questions.

To foster the relocation, the Authority established offices throughout the United States; first Chicago, Denver, Salt Lake City, ultimately a number of sub-offices, 47 in number. WRA field office personnel met with local committees that wanted to be helpful to

help organize and help find employment, housing and so on, and, in general, to smooth the way.

I won't bother to give you the details unless you want to know what the leave requirements were. Actually, in 1942, 700 people went out on indefinite leave as it was called. In 1943 the figure had risen to 17,000 and up. At the time that the exclusion orders were lifted, just at the end of 1944, the figure had risen -- I found two figures in WRA documents -- 30,000 and 35,000; I'll let you pick your own, but it was somewhere around that number.

Now, that was a very quick look at the general relocation idea. I want to turn to another subject now and that's the Japanese Americans in the military service, because we felt all along that with the Japanese excluded from military service, and we knew a good many who were in and others who wanted to be in, the population would have an unnecessary future burden.

There had been 6,000 Japanese Americans in the Armed Forces when Pearl Harbor came along, and most of them, so far as I know all, were let out. The Nisei were classified first as 4-F and then to 4-C.

Also, there was some opposition to this idea from Hawaii, from the Army, where they knew more about the problem really, and they began to urge the Japanese Americans who wanted to serve be recruited. On January 28, 1943, the idea, orginating in the Defense Department, of recruiting a Nisei combat team in Hawaii and in the centers was announced. WRA didn't

like the idea of a segregated team at first. Ultimately, it came to realize it became a powerful public relations and political instrument for the population.

The Army had prepared a questionnaire to submit to all Nisei, asking a number of things, including a specific pledge of loyalty. WRA concluded if we were going to do that for the Nisei then let's register all adults, because we needed a basis for the leave that we proposed to grant.

So we had a general registration which in the aggregate was pretty disturbing in the centers, but in the end, supplied the basis for our future actions. We made one grievous mistake; the Issei at first were asked to sign a loyalty oath to a country by which they were denied the right of citizenship. We soon changed that so that all the Issei had to do was agree not to do anything harmful to this country.

The registration went pretty well everywhere except at Tule Lake. There, 4,200 people refused to register, and only 59 Nisei volunteered for the Armed services. Nevertheless, the record of the 442nd, as it began to move up the Italian Peninsula and across France, became well known to everyone as an act of national heroism from which the Japanese Americans in the centers could benefit.

WRA felt that that would not be enough and kept pushing to have the draft restricted lifted. That was done only on January 21, 1944, when the conscription was restored for all Nisei. There was some objection to that

in the centers, of course, as is understandable, but overall, 2,800 Nisei were inducted into the service by conscription.

Now I want to turn to another problem that confronted WRA. When the racist critics of the Japanese Americans got them moved off the coast and into camps they thought, some of them actually thought, they would be held there until the end of the war and then shipped to Japan. And they thought, well, we're all right, but they soon discovered that WRA had a different plan of releasing the people as rapidly as possible, so there blew up a series of attacks on the Authority destined to serve two purposes really, one to continue to discredit the Japanese Americans and to keep alive the notion that they were a dangerous element in the population, and the other to get WRA's responsibilities transferred to the Army.

We were constantly charged in the press with coddling or pampering and overfeeding the evacuees in the centers. The relocation of the program was described as the process for turning spies and saboteurs loose on the country, and so on. You would get an organized cooperation between political elements and press groups: for example, the first one I remember began when Scripps-Howard Press picked up some stories from the Arkansas centers arising from the testimony of a bunch of disgruntled contract workers, and circulated them widely.

Senator Wallgren of Washington introduced a bill to transfer the function of WRA to the War Department, and Senator Chandler of Kentucky headed a subcommittee of the Senate Armed Services Committee to investigate things. Well, he went around the country; he went to several states with wide publicity, and what ended up, because the Army flatly refused to consider the -- or I mean the War Department flatly refused to consider the idea of taking this job -- they ended up with three rather mild recommendations: restoration of the draft, speeding up the release of evacuees for work; and separation of the loyal from the disloyal, a process that became known as segregation.

The Denver Post launched a campaign that began by finding some undoubted overstocking in the food warehouses at the Heart Mountain Center. That was the result of some miscalculations of the Army Quartermaster Corps and some misjudgments in the Mess Office in the center; but, the press never pointed out that. In actual feeding, rationing requirements were observed, and that the overstocking could be cured simply by transferring to other centers.

What made The Denver Post series more important was the fact that the Dies Committee at that time organized a subcommittee headed by Congressman Costello of California, and he began a series of hearings in which -- well, he held nine meetings to begin in Los Angeles, all in executive session, but at the end of each day issued a press announcement, inflammatory, sensational and often based

upon the sort of material he could get from the critical press. They again placed considerable reliance on some of the employees who had been discharged from one of the centers.

At that time also the Hearst press stationed a man in Washington solely for the purpose of batting these stories around, and every day we would have a story from the Committee and another story from let's say the Hearst paper, quoting what the Committee had said the day before. They played everything as many times as they could; and we in the Authority spent practically all our time trying to run down the facts, hoping some day for a chance to answer the charges. Ultimately that chance was given in a hearing here in Washington, which was, on the whole, pretty well handled from our point of view. In the end, the Committee again made some rather mild recommendations: (1) proceed with segregation, (2) launch an Americanization program in the centers, and the worst, (3) take the leave clearance authority away from WRA.

There was one member of Congress, and may God bless him, Congressman Herman P. Eberharter of Pennsylvania, who dissented even from that, said that many of the charges were unproven and that his colleagues were prejudiced. Later on, when the Committee filed another report after the Tule Lake affair, he again dissented. It was a very, very cheering thing to have any voice like that from the political arena.

I've mentioned segregation, and this is a subject which caused a great deal of trouble and yet WRA could not resist it. The idea grew out of what everyone knew, that in the population there were people definitely pro-Japanese. But they were few; and WRA felt it should have been handled on a basis of individual evaluation, as it ultimately was.

WRA felt that if the job had been done before evacuation, and only those people had been evacuated, that perhaps it would have been a constructive thing, but it wasn't. Yet we kept getting pressure from military intelligence people, from all sorts of sources that we should do the job. Enough tensions built up in the center among different fractions so that ultimately our own center directors and the evacuee community councils began to recommend segregation; so it was decided to go ahead.

We couldn't get a separate center to which to move these people, so instead of that, we had to plan to vacate one and then move the segregants in, in other words, a very disturbing process.

Tule Lake was chosen for that because it was a big center with accommodations for the 20,000 people we felt would be segregated, and had enough agricultural land to keep people somewhat occupied because leave was to be denied to that center.

Well, the moves were made (also Tule Lake had the largest number of potential segregants for all the

centers). The moves were made in October of '43. Those were segregated (1) who had requested repatriation to Japan, and that's understandable; (2) those who had said no to the loyalty question during the registration, somewhat less understandable because motivation was not in every case real disloyalty; and (3) those who had been denied leave clearance because of some personal shortcoming; and then (4) the family members of those groups.

The segregation and the creation of that center provoked one of the most difficult incidents in the history of the Authority. It's just too long and complicated for me to take time to try to discuss it here. In fact, I don't know of all the details without more research. But it began with a truck accident among farm workers in which several were injured and one died. A group of dissidents then called a strike to stop the shipping of produce from Tule Lake to other centers. After some negotiation, the WRA agreed that after the crop in the ground was harvested no more would be planted for other centers, but, nevertheless, the trouble continued to boil and it ended in a near riot on the 4th of November, at which time the military police were called in and took over the center. They administered it for two months. WRA didn't take charge again until mid-January 1944. Although it gradually was able to restore a measure of community confidence and trust, it was faced

with the fact that the community was split into factions between those who were genuinely desirous of being Japanese and those who had merely elected segregation to avoid the draft, or just because they didn't want to move.

I would say that the reason for the incident -- I'll just make this observation, in my opinion, is first of all the divided nature of the community and second the fact that the Administration there had come so to rely upon the community for all the ordinary maintenance of order and discipline and good operations, that it didn't realize in time that that had been destroyed.

Well, one other thing, on July 1, 1944, a law was passed permitting people, citizens of this country, to renounce their citizenship. Although it was couched in general language, it was clearly intended for the Japanese Americans. The Justice Department took over the administration of that. They went into the center late in the year. WRA was unhappy about it but could do nothing about it really. And nearly 5,500 people signed renunciation applications.

Later, hearings were given, and so in the end, only 4,300 people from Tule Lake were actually transported to Japan. But outside the center, the whole affair put us back on the west coast, from the public relations point of view, to square one.

The Dies Committee had resumed its investigation. The California legislature conducted an investigation. Certain local congressmen conducted their own, and what really hurt WRA was to be attacked vigorously by the San Francisco Chronicle, which up to then had been our only journalistic support in California.

Clearly WRA had become a hot political issue. It couldn't any longer function in that vacuum that we called the Executive Office of the President. It needed to be in a cabinet department, and there were people who wanted to put it in Justice or wherever.

The President chose to put it in the Department of the Interior. Obviously much of our work was related to Interior, but I also think he knew what kind of man Secretary Ickes was. In any event, we went in there -- I'm sure we were looked over, and perhaps the next speaker can tell you about that -- but in any case we were supported by the Secretary and the Under Secretary. So, following the 1st of January 1944, WRA could begin to concentrate on a basic job relocation, and it worked hard on that, taking great advantage of the work of the Nisei soldiers in Europe. WRA was prevented by military secrecy from talking about the several thousand who were also serving in the Pacific. We couldn't talk about that until the war was over.

And in the process of relocation, the population was disseminated, some into every one of the 48 states

except South Carolina. Of course, there were heavy concentrations around certain cities.

On December 18, 1944, WRA announced (because the day before, the Army had lifted the exclusion orders on the Pacific Coast) it would close the centers within a certain period in the future, beginning six months after the first of January 1945 and ending a year later.

This put us into our last struggle, both in the centers and in public relations. Very few of the evacuees welcomed the decision. Some of them were apathetic. Some were hostile. As evacuees, who did go out to the West Coast, reached their old homes, some of them ran into the old racist behavior, but that was quieted down with the help of Caucasian Army officers who had served with the Nisei and came and made speeches up and down California. Of course many other people helped. But in any event the problem was pretty well cared for.

But evacuees, many of them, didn't want to leave. And an organized campaign against closing the centers developed. Now there were a lot of them who had valid reasons for fearing to go back to private life. I would have to say, I'm afraid that already center life had institutionalized them. This was something that is a very bad effect of this whole experience, in my view.

Happily, closing the centers came on time. In WRA's opinion, if we had to wait another year, it might have been impossible.

The opposition came from a lot of the good people who had supported WRA in the early period when it was catching fire from the racists. But Mr. Myer persisted, insisted, among other things -- he had to schedule trains to move them at a time when we were moving troops to the Pacific Coast; so he had to set schedules and live with them.

Well, the centers were closed on time. Other work was left to do. One job was to care for trying to obtain some resolution of the property loss. Unfortunately, WRA was never able to do very much about that. At the end, it prepared a draft law setting up a claims commission to be administered by the Department of the Interior; but, responsibility was transferred to the Department of Justice.

Now, in conclusion, I simply would like to say that WRA never did see its responsibility as limited to the "removal, relocation, maintenance and supervision" of the evacuees. It felt it had the duty to do everything it could to mitigate the harm done by exclusion, and to help the Japanese Americans to regain the rights and status of Americans. I use that term rather than "citizens," because I think that any population given the right to live in this country indefinitely must be treated with regard.

I would also like to digress to say that one of the things that may prevent this kind of thing from happening again is that we no longer have a population here, so far as I know, which is not eligible for naturalization.

At any rate, within the limits set by the atmosphere of the time, the necessities of global war as generally were defined by other people. We took every decision with that idea in mind, trying to get the people back to normal American life.

I think we can point to one constructive consequence. Of 110,000 people in the centers, only a few -- more than half of them -- returned to their old homes, and the remainder were scattered all over the United States. This dissemination, I'm personally convinced, has helped give the Japanese Americans a fixed, secure, and respected place in our society.

CHAIR BERNSTEIN: Thank you very much, Mr. Barrows for a very excellent narrative and very open statement. In the interest of staying on schedule, we're a bit behind, I'm going to establish or try to go for an order of questioning, beginning with my co-chairman, Mr. Lungren, and then going to the right.

VICE CHAIR LUNGREN: I have no questions.

COMMISSIONER MARUTANI: I would like to ask one question. Do you know the genesis of the terminology "Assembly Center and Relocation Center?" Who picked this out?

MR. BARROWS: Well, the assembly centers were military, and I assume they chose it, and I assume it was descriptive because that's where the people were brought together from their individual homes; they were

assembled in those centers. Relocation center was chosen, and I think I remember this correctly, but this is just personal recollection, because the obvious term might have been Resettlement Centers, but at that time there was a certain amount of political difference of opinion in this country about the resettlement program of the Farm Security Administration, and they decided just to use another term. Actually in the end I think it was a more descriptive one.

COMMISSIONER MARUTANI: One other question. Were other terms, other than "resettlement," considered?

MR. BARROWS: I don't remember.

COMMISSIONER MARUTANI: And why was the term "center" used? Why not "camp?"

MR. BARROWS: Simply because we wanted to defeat the notion, as best we could, that these were internment camps. Now I know that they were not free places, but we wanted to maintain the distinction between internment, which is an established practice in time of war applying to aliens, and we wanted to make it perfectly clear that these people were not interned because they were aliens. Now, to be sure, that didn't help a whole lot in the life of the times, but we felt that it was an important distinction to maintain. Personally, I think it still is. I think it's very sloppy business. I don't even particularly like the terminology of your legislation on that account.

COMMISSIONER BROOKE: Mr. Barrows, what was your role? What did you actually do? Did you go around to the various camps?

MR. BARROWS: Well, I hit as many as I could.

COMMISSIONER BROOKE: Did you see all of the camps at some time?

MR. BARROWS: No, sir, I didn't see all of them, I didn't get to Manzanar, and I cannot remember whether I ever got to the Utah project, but I got to all the others.

COMMISSIONER BROOKE: Were there ever any claims of atrocities brought to your attention?

MR. BARROWS: In the camps?

COMMISSIONER BROOKE: Yes, in the camps.

MR. BARROWS: No, sir. There were occasional times when there was some exchange of blows over one kind or another between the security officers and people, or between groups of people, and I guess there were some actual murders.

COMMISSIONER BROOKE: You guess there were some actual murders?

MR. BARROWS: Yes, but that was within the evacuee community. I never heard any claims of mistreatment by the administrative personnel, except during the Tule Lake riot when I was told that the military police were a little rough on some of the rioters.

COMMISSIONER BROOKE: Were these civilian personnel who were working under your supervision primarily?

MR. BARROWS: Altogether, I believe.

COMMISSIONER BROOKE: You make it sound as though the camp was not a very bad place to be. Is that the impression you wish to leave, or is that the fact, that's what I really want to know.

MR. BARROWS: Well, of course, they were a bad place to be, to be confined anywhere is a bad thing and to be confined in temporary quarters is a bad thing, but as against the alternatives that were really available they were better, and we did what we could to make them decent places.

But I also want to point out --

COMMISSIONER BROOKE: What are these alternatives to which you refer?

MR. BARROWS: Well, they could have been kept in complete confinement under somebody else's control. For example, they could have been denied the right to leave, as they were given.

COMMISSIONER BROOKE: Well they couldn't come and go freely, could they?

MR. BARROWS: No, they had to have passes.

COMMISSIONER BROOKE: There was barbed wire around the camp, as I understand your testimony.

MR. BARROWS: Yes, sir.

COMMISSIONER BROOKE: There were military police around the camp, is that correct? There were troops? How would you describe it?

MR. BARROWS: Military police.

COMMISSIONER BROOKE: How many would you say around camp?

MR. BARROWS: I don't know.

COMMISSIONER BROOKE: Were they armed?

MR. BARROWS: Yes.

COMMISSIONER BROOKE: So when the people left, were they given any sort of a permit to leave?

MR. BARROWS: Yes.

COMMISSIONER BROOKE: And if they violated any of these rules or regulations, what happened to them? What was their fate?

MR. BARROWS: Oh, I think that the principal -- you mean what regulations about going in and out?

COMMISSIONER BROOKE: Yes, any violation of any regulations or rules that were established by the WRA.

MR. BARROWS: I frankly believe that most of the regulations of life within the centers were enforced by the Evacuee Council themselves, by the community. If anyone violated a law of the State, anything which was a felony, then the people would be subject to arrest and trial by the state authorities in the state where the center was situated.

COMMISSIONER BROOKE: So you did not have any court martials or anything of that nature within the camp?

MR. BARROWS: No, not of an administrative sort, no.

COMMISSIONER BROOKE: Were they compelled to perform labor?

MR. BARROWS: No, sir.

COMMISSIONER BROOKE: If they didn't want to work, they didn't have to work?

MR. BARROWS: That's right, as far as I can remember.

COMMISSIONER BROOKE: Men, women or children?

MR. BARROWS: That's right.

COMMISSIONER BROOKE: What did they do in the main, just sit around the camp?

MR. BARROWS: No, as a matter of fact, they maintained the camps and they work, and as I said, or tried to say in my opening statement, most of them worked on all these household operation jobs of running the centers.

COMMISSIONER BROOKE: That was purely voluntary on their part?

MR. BARROWS: Yes, sir.

COMMISSIONER BROOKE: And they were given adequate food?

MR. BARROWS: Yes, so far as quantity is concerned it was, I suppose, ordinary; but by and large, the diet was greatly influenced by the decisions of the communities themselves. They produced and obtained -- but often produced, special Japanese items such as bean curd, soya sauce and things of that sort.

COMMISSIONER BROOKE: Adequate medical attention?

MR. BARROWS: On the whole, yes, although getting enough doctors was difficult, and we relied very largely upon evacuee doctors.

COMMISSIONER BROOKE: Any recreational facilities for the young?

MR. BARROWS: Oh yes, there were games of one sort or another; there was ample space for that, I believe.

COMMISSIONER BROOKE: Well, other than being confined and their whole concept of confinement, you would say that these camps were not the worst places to live?

MR. BARROWS: Senator, I would say that we concluded quickly that they were bad places to live, not because people weren't going to like them, but because they were, and and that they should move and get back into normal life as rapidly as possible, for many reasons; first, to gain acceptance in the rest of the country; second, to preserve that independence. But as I mentioned at the end, they practically had to be forced to leave at the end.

COMMISSIONER BROOKE: And why was that?

MR. BARROWS: They didn't want to go. They didn't want to face another change. Many of them were old. It's perfectly true that a number of them had to move with the assurance that they would become public charges, but not very many.

But we felt that, one of the astonishing things about this is how quickly people, who are

maintained in this way, however adequately you may say, become institutionalized. And that's one of the bad things about the whole exercise.

COMMISSIONER BROOKE: Well, the right of survivorship, you mean. You can be confined in a penitentiary, I presume, and you try to live in that penitentiary; you have to live, by necessity, they have to do that; you can't tell me they became acclimated to these camps, and they found it comfortable at any time, do you?

MR. BARROWS: Just simply that you read some of the reports of the problems encountered in trying to close the centers.

COMMISSIONER BROOKE: Well, I mean, then there's the question of choice, what was available to them.

MR. BARROWS: Exactly.

COMMISSIONER BROOKE: They were fearful of leaving the camps because they were fearful of going where they didn't know.

MR. BARROWS: Well, they could all go back where they had been, I know that wasn't -- well in any event, that was the problem.

COMMISSIONER BROOKE: You're satisfied that the WRA did all that it could to make these people, who were confined in the camps, as humanly comfortable as circumstances would permit?

MR. BARROWS: So far as physical comfort and security and food and so on are concerned, yes; but we early decided that we weren't going to try to make them into model communities, because we wanted the people to take advantage of the freedom of going out elsewhere in the country. And, of course, we were always pushing quietly for the lifting of the exclusion order.

COMMISSIONER BROOKE: You mean intentionally you did not want to make them model communities?

MR. BARROWS: That's right.

COMMISSIONER BROOKE: Of course you thought that would be a deterrent?

MR. BARROWS: We thought the first thing that could happen would be for the war to end with the bulk of these people under U.S. Government control and support.

COMMISSIONER BROOKE: And you wanted to get rid of the responsibility?

MR. BARROWS: We didn't want to get rid of the responsibility, we wanted to change its nature.

CHAIR BERNSTEIN: Father Gromoff, do you have any questions?

COMMISSIONER GROMOFF: No.

CHAIR BERNSTEIN: Mr. Goldberg?

COMMISSIONER GOLDBERG: The War Relocation Authority, we all recognize, was composed of humane people. You would agree that, as Senator Brooke said, that it's a terrible thing to be confined under any circumstances?

MR. BARROWS: Yes, sir.

COMMISSIONER GOLDBERG: Did you have anything to do with the Civilian Exclusion Order Number 5, which was issued I think after the War Relocation Authority was established on April 1, 1942. Would they have consulted -- at that time was that --

MR. BARROWS: I don't know the Order you are referring to, but I don't think --

COMMISSIONER GOLDBERG: It's the Civilian Exclusion Order Number 5 signed --

MR. BARROWS: No, I don't think we ever had any --

COMMISSIONER GOLDBERG: Well, I just had a curiosity about it, and I'll tell you what it is. One of the provisions -- it's a minor thing -- the United States Government, through its agency, will provide for storage at the sole risk of the owner of household items. That's a strange thing, isn't it, when you exclude people and make him assume the risk. Wouldn't you say so, Mr. Barrows?

MR. BARROWS: Justice Goldberg, I think the whole property thing is of special -- the loss of property began when the war broke out before any announcements were made, and some people began to make distress sales and private arrangements. Some evacuees trusted their neighbors successfully, others unsuccessfully.

COMMISSIONER GOLDBERG: The same thing, when you're ordered to evacuate your storage is at your sole risk; you're

forced to evacuate it; they won't move it. Isn't that a strange thing? It so struck me when I was reading it.

MR. BARROWS: Well, I really believe that by the time that order was issued, great harm upon the property front had been done.

COMMISSIONER GOLDBERG: You mentioned the Tule riot. Did that have any, Mr. Barrows, did that have anything to do with the shooting incident of Okamoto?

MR. BARROWS: I don't remember the incident.

COMMISSIONER GOLDBERG: There was a fellow, Okamoto, a nice fellow, driving a construction truck, who was shot by a private, because he didn't, apparently, respond to this GI immediately, and the GI was tried by a court martial, and fined $1 for unauthorized use of government property. Isn't that a horrible thing?

MR. BARROWS: Well I -- as I say, I don't remember that incident. I thought there was a case at Tule Lake, but I didn't find any in the research I've done.

COMMISSIONER GOLDBERG: I was wondering whether you -- you mentioned the riots and I was just wondering --

MR. BARROWS: Well, I think this incident -- there were other occasions when there were problems of that sort, I'm sure. I remember one, but I can't even remember the circumstances or the center, where the evacuees somehow wandered too close to the perimeter fence and were shot.

COMMISSIONER GOLDBERG: It's 40 years --

MR. BARROWS: Of course we were outraged, but those things happened.

COMMISSIONER GOLDBERG: I feel you have a pretty good recollection.

MR. BARROWS: Well, not very good actually.

COMMISSIONER GOLDBERG: Well, you've shown good recollection.

Let me ask you a final question here, and that's this: As we both agree confinement is not good. I was looking at the wage scale based upon my prior experience, and the wage scale for people who worked at these camps was based upon a 44-hour week in your camps. I assume that that was by directives of the Army. Unskilled, $8 a month; skilled, $12 a month; professional and technical, $16 a month. Looking at it with hindsight -- we all benefit from hindsight, does that seem like to you now -- and I recognize the pressures you were under, the fight you were carrying on, but looking at it now, did the evacuees who were permitted to work outside were earning prevailing wages?

MR. BARROWS: That's right.

COMMISSIONER GOLDBERG: And in comparison, quite different, wasn't it?

MR. BARROWS: The wages were a little higher in our centers, but they --

COMMISSIONER GOLDBERG: Than the outside?

MR. BARROWS: No, than those you cited, they went up to $19.

COMMISSIONER GOLDBERG: Did they go up to $19? Well, then my information was not --

MR. BARROWS: I don't think you can consider those wages in any proper sense, because --

COMMISSIONER GOLDBERG: Why do you say that?

MR. BARROWS: We experimented with having private employment in the centers paying prevailing wages. As we foresaw, there were great difficulties with some evacuees in the centers having prevailing wages and others not. They experimented with various kinds of cooperative arrangements, and finally because relocation became our main purpose, we decided we would treat these merely as a subsistence wage in the hopes that -- We never raised it when the Army's private pay was raised. That was the ceiling simply because we didn't want to encourage staying there.

COMMISSIONER GOLDBERG: Finally, it is true, is it not, that at a given date you as an official and other authorities awarded in a case there, decided that enough is enough, and they must be forced out?

MR. BARROWS: Yes, sir.

COMMISSIONER GOLDBERG: Is that not correct?

MR. BARROWS: Yes, sir.

COMMISSIONER GOLDBERG: When was that date?

MR. BARROWS: Well, the final -- except from the Tule Lake Segregation Center -- the final date as I recall was June 30, 1946.

COMMISSIONER GOLDBERG: 1946?

MR. BARROWS: I believe so.

COMMISSIONER GOLDBERG: And further --

MR. BARROWS: It was supposed to be no more than 18 months after the 1st of January, and I suppose that's when it was.

COMMISSIONER GOLDBERG: And if I understood you correctly, I thought you said that part of the difficulty, you wanted to get them absorbed in society.

MR. BARROWS: Yes.

COMMISSIONER GOLDBERG: That's a fully commendable goal. And you mentioned that there was difficulty because people got used to the life. . .is that so? Would not also the factor of still lingering racial animosity be a factor in the fact that they felt secure in the centers?

MR. BARROWS: Yes, of course. But there was not so much of that in most of the country.

COMMISSIONER GOLDBERG: I'm talking about going home.

MR. BARROWS: Yes, when it came to going home that was a factor.

CHAIR BERNSTEIN: Mr. Mitchell?

COMMISSIONER MITCHELL: One question just to follow up the Justice's question: In view of the fact that they are all in completely different environments, what kind of jobs would they perform after moving out from the centers?

MR. BARROWS: Well, many of them had some professional background, training, and some of them went into business. I should think, though, that virtually the whole range of activities that any group, predominantly young and educated, would get.

COMMISSIONER MITCHELL: Then in view of the fact that the statements that we now hear, that General Clark and others had protested early, that the evacuation itself would seriously weaken the food production for the war purposes. What studies does the Agricultural Department or Conservation Department make of that problem? Was it ever studied and has there ever been a study afterwards, after the economic loss because of the evacuation?

MR. BARROWS: Well you see that study had been conducted before the evacuation; it was before the Authority came into existence. I know of none, and I know of none since then, but it seems to me, personally, perfectly obvious that it disrupted food production.

In one little story, I did glean from my recent reading, is that on the day or a day or two after the war started, when the accounts of all aliens in the banks were blocked, the various Issei-owned commission houses and fish merchants suddenly quit -- particularly the commission merchants -- couldn't buy anything anymore because they had no money; and in Los Angeles, the supply of certain produce dropped to 30 percent of normal within a day or two.

Well, they released some funds, they allowed them the magnificent sum of $100 a month to draw out of their account, plus what they needed to do business, and the supply immediately went back up.

I think there's no doubt about it that there was a loss of production.

COMMISSIONER BROOKE: Madam Chairman?

CHAIR BERNSTEIN: Yes, Senator.

COMMISSIONER BROOKE: Did you give them food, clothing and housing in addition to their daily pay?

MR. BARROWS: Oh, yes. We not only gave them that small wage, but also a housing allowance of $2 or $3 a month for each member of the family.

COMMISSIONER BROOKE: You had commissaries there that they could supply --

MR. BARROWS: Well, yes. Indeed they had cooperatives, eventually run by the communities.

COMMISSIONER BROOKE: What about the general strike, general farm strikes surrounding the Tule Lake? Did you have any escape attempts in any of these camps? Did you have any record of any people attempting to escape?

MR. BARROWS: I don't recall any, although there may have been some. That never struck us as a problem.

COMMISSIONER BROOKE: Were there any other uprisings other than this --

MR. BARROWS: Nearly every center had an occasional period of tension and trouble, yes. But usually it was not too

serious, and there were really only three that WRA recalls as grave; one was at Poston on the Colorado River; one was at Manzanar where a man was killed, or two indeed.

COMMISSIONER BROOKE: By the military?

MR. BARROWS: Yes. At the Tule Lake affair. There were other cases where there were momentary confrontations, yes.

COMMISSIONER GOLDBERG: Following Senator Brooke's argument, am I wrong? I'm reading from a memorandum of General DeWitt -- or, no, General McCloy, or Assistant Secretary McCloy, where the clothing allowance, as I read it, was that adult male, $30.50 per year --

MR. BARROWS: Excuse me, Mr. Justice, but you're reading Military Orders for assembly centers, not WRA.

COMMISSIONER GOLDBERG: Oh, but this says wages, pay and maintenance of the evacuees; it says assembly centers. Does this not apply to your centers?

MR. BARROWS: No, sir.

COMMISSIONER GOLDBERG: How much did you exceed these figures? Can you remember?

MR. BARROWS: Well, as I say, the clothing allowance didn't begin immediately, but when it did, I believe it was around $2 or $3 per person per month.

COMMISSIONER GOLDBERG: $2 or $3. So it's not much different, because the adult male was $3.25

a month, for a year $30.50; male 6 to 18, $2.15 a month, $25; children -- I'd love to have my grandchildren see this -- 1 to 5 years, $2.60, $27.47; adult female $4.61, $42.19; female 6 to 18, $2.65 a month, $26.51. Total cost for family of five $16 a month, $162 for the year.

I'm not saying this in any critical sense, because I thought the War Relocation Authority really had some job. Would your amounts differ materially from that?

MR. BARROWS: Well I couldn't follow you completely, but I thought that was -- what did you say the annual figure was for a a family?

COMMISSIONER GOLDBERG: $162.07

MR. BARROWS: Well I don't know. I would have to do the arithmetic. Let's say they got the middle wages of $16 a month and there were two, as there often was, people who were on the payroll, and let's say there were three children, and the all got clothing allowances.

COMMISSIONER GOLDBERG: This says for five.

MR. BARROWS: Well I know. But you see --

CHAIR BERNSTEIN: Why don't you clarify the difference between the Army instructions on pay, if you will. I think you did before, Mr. Barrows, and the WRA's --

MR. BARROWS: Doubtless it was similar, but I've never before heard these. We developed our own in light of our needs as we saw them. I think they were a little more generous but maybe not.

CHAIR BERNSTEIN: Commissioner Mitchell, I think you had --

COMMISSIONER MITCHELL: I just had one question. I was wondering, Justice Goldberg mentioned the shooting, and the military individual, as I remember his name, was Gold, and I just wondered whether there was a considerable conflict between the military and the WRA in the policing and handling.

MR. BARROWS: No, there wasn't, because by and large their jobs were quite distinct, and only when some-thing like that happened did they impinge on each other, and that didn't happen very often.

CHAIR BERNSTEIN: Thank you. I wanted to ask --

MR. BARROWS: Well, excuse me, but before we close, I have one thing I want to say to the Commission, if I may.

CHAIR BERNSTEIN: Proceed, Mr. Barrows.

MR. BARROWS: Well, I simply wanted to say that as I tried to understand the mission of the Commission, I believe you might find of some use to you a judgment made by WRA in its closing report about the necessity for evacuation.

Now clearly it wasn't our business, but we couldn't help thinking about it, and in retrospect, officially commenting about it. And this is the judgment? "WRA believes that in all probability any selected evacuation of people of Japanese descent in the west coast Military area was justified and administratively feasible in the spring of 1942. It does not believe, however, that a massive evacuation was ever justified, and it feels most strongly that the exclusion orders remained in effect for months and perhaps

years after there was any real justification for their continuance. Above all else the Authority deplores the stigmatizing effects of the mass evacuation, the spurious color of official approval which had led to the racial thinking of west coast pressure groups and the severe blow which it dealt to the democratic faith of thousands of young American citizens,"

COMMISSIONER BROOKE: That was written when?

MR. BARROWS: In 1946.

CHAIR BERNSTEIN: Thank you very much, Mr. Barrows, for your --

COMMISSIONER GOLDBERG: I would just like to ask this question, and say that people in the War Relocation Center were humane people, and under great difficulty tried to do the job that they could do. But they operated under political and other pressures. Would you not agree with that, Mr. Barrows?

MR. BARROWS: Well, I suppose we were just ordinary people, really, but we had not been infected with any of the tensions of the west coast.

CHAIR BERNSTEIN: Are there further questions?

MR. BARROWS: Excuse me, just let me say, unfortunately, now and then we would get people who were unsuitable and then we had trouble, and we never knew in advance what we were going to get. We found there were two kinds of people that didn't do; they were the ones who were secretly sure that they were dealing with spies

and saboteurs, and then there were the others who were so emotionally upset by all that; they wanted to go the other way.

We even tried one time by getting some psychologists together to develop a test of hidden racial attitudes, but we didn't get very far with it; some of our worst troubles came from the people who were just not emotionally stable enough.

CHAIR BERNSTEIN: In connection with the critical press, Mr. Barrows, that you described, would you say that those attitudes were consistent with their prior attitudes about the Japanese and their presence in California, or was it something that was stimulated by the war and by the wartime hysteria?

MR. BARROWS: There's no question about it. The wartime hysteria was at the heart of matters. It wasn't pointed out by my predecessor, and I'd like to mention that during the crucial weeks when the decisions were made, three ships were sunk off the Pacific Coast, and there was a shelling of one point. During that time, women and children who had been evacuated from Pearl Harbor were coming in on ships reporting stories, all false, of sabotage and the like; so you could just sense how these things built up. And I must confess that I personally don't think that -- I think a better security job can be done in such a situation by leaving people in place, but not unless you have general community acceptance of the situation.

COMMISSIONER MITCHELL: On that point, let me ask you whether you believed those stories. Did they come to you as fact?

MR. BARROWS: Oh, we didn't know. As a matter of fact, our usual reaction was to figure out how we could answer them.

COMMISSIONER MITCHELL: One little ship shot a shell into California some place and didn't hit anything, and that was the basis for an untold number of stories.

MR. BARROWS: Well, there were three sinkings also. The Army did sink a Japanese submarine and those sinkings ended.

CHAIR BERNSTEIN: And I assume those were all stories that were in the newspapers.

MR. BARROWS: Oh, yes.

CHAIR BERNSTEIN: And widely broadcast.

MR. BARROWS. Yes. Also, you know the Japanese moving down the Pacific, or I mean the Western Pacific, the Philippine stories were still in the newspapers and so it was being fed from --

COMMISSIONER GOLDBERG: Well, we had sinkings, now thought my military guard, which wasn't very much, it was a desk officer. We had sinkings by German submarines also off the Atlantic, very close.

MR. BARROWS: Yes.

COMMISSIONER GOLDBERG: And they made no attempt to intern Germans or Italians.

MR. BARROWS: Maybe, if they had all been concentrated in a small area and not amounted to very many people so that they could be moved without destroying the local economy.

COMMISSIONER GOLDBERG: Well, New York has a pretty good collection of both Germans and Italians.

MR. BARROWS: I know, but the point is --

CHAIR BERNSTEIN: And so does Milwaukee.

MR. BARROWS: Well, anyway.

COMMISSIONER BROOKE: Wouldn't that make it more easy for you to provide security?

MR. BARROWS: I would think so, sir.

COMMISSIONER BROOKE: The fact that they are.

MR. BARROWS: I would think so, yes.

COMMISSIONER BROOKE: Rather than dispersed.

MR. BARROWS: I personally think from my experience since then in other activities, that you're more likely to have security if you leave people in place.

COMMISSIONER BROOKE: If they were perceived as enemies you would rather have your enemies concentrated to a small area than dispersed.

MR. BARROWS: I thought that in a small way this is the same error made by Hitler in his treatment of the Jews. He not only mistreated them but he lost a great resource. Well, we lost a resource. It's amazing how much we did get in the way of contribution by the Japanese Americans, considering how little we did to encourage it at the outset. In

the end, they made as much of a contribution as any other, perhaps more than any other group of that size.

CHAIR BERNSTEIN: Thank you very much, Mr. Barrows. Our next witness, I have the great pleasure to introduce here today is presently an attorney in Washington, D.C., and was formerly a very distinguished member of the Supreme Court of the United States, and at the time of these events was the Under Secretary of the Department of the Interior to Secretary Harold Ickes -- the Honorable Abe Fortas.

STATEMENT OF ABE FORTAS

MR. FORTAS: Madam Chairperson and members of the Committee, last night I prepared a statement, and I think it is brief enough for me to read quickly, and I'll do that with your permission.

Justice Goldberg asked me to come before this Commission and to add whatever I could about the work of the Department of the Interior with respect to the subject of your hearings, and I explained to him that I did not think I could be of any substantial assistance, but I'd never say no to Arthur Goldberg.

I was Under Secretary of the Interior during the period 1942 to 1946.

There are two principal reasons why my contribution is necessarily limited:

First, during the relevant period, my principal activities, which were extremely strenuous, related to the natural resource responsibilities of the Department,

principally coal, hydroelectricity and oil; second, it was my unvarying practice in the various government posts that I occupied to refrain from taking with me any documents relating to my official duties. If I came in with a hat, I left with a hat, and that was it.

I should add a third reason which is the fact that the events under review occurred more than 30 years ago. I am extremely skeptical of memory's reconstruction, particularly of my own. I always remember something that Thurman Arnold, my colleague on the Yale faculty and my law partner, now deceased, said. I remember something Thurman said in one of his last speeches. He said, "I am an old man and the things I remember best, probably never happened."

I have no connection whatever, so far as I can recall, with the evacuation or relocation of the Aleut Indians, which is part of your subject matter here, and I am not familiar with the activities of the Interior Department in that connection.

Now my personal participation in the Department's work with respect to the Japanese and Japanese Americans, who were evacuated and interned, was limited. So far as I can recall, my association with this problem was fairly restricted to collaboration with Secretary Ickes and Dillon Myer, who was director of the War Relocation Authority, and with occasional controversies, conflicts and conferences and correspondence with officials primarily of the War Department, and particularly John McCloy, who

was then Assistant Secretary of War. Apart from this I want to share one incident with you.

I vividly recall visiting one of the relocation centers -- I believe that it was the Jerome Center in Arkansas -- and the visit must have taken place in the early part of 1944.

The memory of this visit has remained with me as a dramatic recollection during all these years. It was a profoundly emotional experience. As I recall, the center was a place of desolation in which a number of Japanese from the west coast and Hawaii were incarcerated. My basic impression was of the resignation and the apparent hopelessness of the Japanese in the camp, most of whom had been confined there at the time of my visit for more than a year. But, perhaps, the primary reason why my visit made such a vivid impression upon me was that I was taken to a schoolroom in the center, probably for children of kindergarten age. As I entered the room as the representative of the Department of the Interior, the children were all neatly dressed and scrubbed. I can see them before me now -- they all rose to their feet and sang "America the Beautiful." I am sure you will realize how profoundly affecting this was. These were small children who had been uprooted from their homes and transferred with their families to this barren, quasi-military camp. At the time of my visit, their future was still uncertain. These blameless

children, so far as could be known at the time, might well be destined to spend all of their formative years in this dismal, abnormal environment, segregated from the life and people of their nation, deprived of opportunity for normal development. Nevertheless, in their beautiful innocence, they were singing a tribute to their country. I'm sure you will all understand why I not only have an emotional but truly a visual memory of that experience.

Interior's association with the problem of resident Japanese during the war, involved both the Japanese in Hawaii -- which was then a territory of the United States -- and commencing in February 1944, the administration of the internment and relocation centers and the people confined in those centers.

Our association with the problem in Hawaii was due to the fact that administration of the territories was a responsibility of the Department of the Interior. It was exercised through I think the Office of the Secretary then, and later through a division of territories. So far as Hawaii was concerned there was the familiar demand of a variety of people, mostly on the Mainland, spear-headed by the Army's Western Defense Command in California, for mass evacuation of the Japanese in Hawaii. The Department of the Interior and Secretary Ickes, in his usual forceful manner, strongly resisted the demands. Fortunately, the military commanders in Hawaii, Admiral Nimitz and General Emmons, were also opposed to mass

evacuation in Hawaii. Instead, there was a selective and restricted removal of a relatively few Japanese whose loyalty was considered to be questionable, for specific reasons. Undoubtedly, even in this process, there were cases of injustice, but it was not a mass racially defined operation.

President Roosevelt transferred the War Relocation Authority to the Department of the Interior in February 1944. I think the reasons for the transfer are fairly clear. As Leland Barrows has described, the War Relocation Authority was being subjected to massive and sometimes vicious attacks. In November 1943, the disorders, which Dr. Barrows talked about, at Tule Lake had occurred. The House Un-American Activities Committee under the chairmanship of Martin Dies, committees of the California legislature, individual legislators from California and a few from other places, were on the rampage.

I think President Roosevelt concluded that the War Relocation Authority needed a haven, a home, a bulwark and a sturdy defender, and the obvious choice was that great gladiator, Secretary Ickes. Ickes had previously written President Roosevelt a letter criticizing the evacuation and incarceration of the West Coast Japanese. Perhaps, also, the President chose Secretary Ickes because -- as a result of Ickes' administration of other difficult jobs such as Public Works

Administration and Bituminous Coal Commission. The President may have thought that the public would be reassured about the quality of the administration of the WRA centers, which had been under all sorts of fire.

Now let me say at this point that it is my impression that when the centers came over to Interior, as well as thereafter, they were well administered under the circumstances. We very quickly, as I recall, were persuaded that Dillon Myer and his staff, including Dr. Barrows, had effectively accomplished one of the most difficult tasks in the Administration that I know of, and that they had done their job with compassion and sensitive concern for the internees, and with extraordinary courage.

As I recall because of the excellence of the staff of the War Relocation Authority, and the quality and integrity of the policies which they had adopted, Interior made no basic changes, which was quite remarkable, in WRA's fundamental policies or procedures. Our task was to facilitate their work and their policies.

The fundamental problem of WRA at the time of the Interior takeover in February 1944 was to help to effectuate Dillon Myer's determination to liquidate the agency that he directed, and to do it quickly. This was not an easy task for several reasons. First, there was still a great deal of hostility towards the Japanese Americans

in many parts of the country, dramatized by instances of violence against evacuees who were released on leave or relocated. Second, as I vividly observed on my visit to the Jerome Center, and as Dr. Barrows has narrated, many of the Japanese in the Centers, and particularly, but not exclusively the older people (the Issei), had already become institutionalized and resisted relocation; they were afraid of what was outside. They were concerned about going back into a hostile world where their roots had been so preemptorily severed.

And again there were many people of good will in the country, including many columnists, magazine writers and liberal friends, sympathetic to the plight of the Japanese, who opposed our decision that the drastic surgery of closing the camps was necessary in the interest of the internees themselves.

You will recall that most of the internees had been deprived of their property. All of them had been ruthlessly uprooted. Forced evacuation from the centers was, in fact, a harsh and painful act in the shortrun. But it was surgery that was necessary lest we, to provide an analogy, were to recapitulate the unfortunate history of the American Indians and create a population more or less permanently confined in the restricted centers.

So we had no doubt that the necessary course of action was that which Dillon Myer had chosen, to evacuate the centers and to reintroduce their inhabitants to the

real world. Otherwise, many of the internees, including their children, would have remained as a more or less permanent population assigned to a life of destitution.

It was a difficult decision, and it was a difficult program to carry out. There were many differences of opinion as to timing and technique. But I think that under the direction of Dillon Myer with the sturdy and aggressive protection of that marvelous gladiator, Secretary Ickes, the program was accomplished about as well as the times and the bitterness of the war permitted. I'll qualify that in one respect: it is a source of deep regret, as has always been, and perhaps it is a national dishonor, that we were unable to provide for the financial rehabilitation of the population at the time they were released. Most of them, without any fault of their own, including thousands of American citizens born here; had lost their homes, their properties, their jobs, their farms in the original evacuation, and they returned to nothing, with nothing.

The necessary but brutal process of releasing the internees was aided by the events of the time. The tide of the war had turned. By February 1944, when Interior took over jurisdiction, our armed forces were advancing in the Pacific, and despite the claims of a few paranoid super patriots, there were no instances of sabotage or attempted sabotage, Mr. Justice, that I've ever heard of or read of, on the Mainland or in Hawaii by the Japanese Americans -- a remarkable story.

Most important of all, I think, was the extraordinary accomplishments of the Japanese Americans who had volunteered or were inducted into the armed forces. The 100th Battalion, composed largely of Hawaiian Nisei, had proved its valor and patriotism. In May of 1944, the famous 422nd Japanese American combat team embarked for the campaign in Italy. Its record of valor and accomplishment was one of the most brilliant in the history of World War II. The result of their accomplishments, which the War Department and we very deliberately publicized, was profoundly to change the attitude of people in this country towards the Japanese American.

On December 17, 1944, after a long and persistent pressure from all of us and Secretary Ickes and the WRA, the War Department announced the revocation of the mass exclusion order relating to the west coast. And it is interesting so far as I recall or have read, when the War Department did announce that, which was toward the end of the war, there was very little organized opposition to it, although there were a good many sporadic instances of protest and violence.

The very next day, December 18, 1944, the War Relocation Authority announced that all of the centers would be closed by the end of 1945 and that WRA would be liquidated by June 30, 1946. This was one of the few instances where an agency, despite great difficulty, forced decisions and programs to liquidate itself. This was

accomplished and on schedule, and despite the opposition.

Madam Chairperson and members of the Commission, looking back on these events, if I may be permitted a few personal observations, I would like to say several things at the outset. First, I vividly recall how traumatic Pearl Harbor was. It's easy to talk glibly about that, but I was there at the Department of the Interior; I remember how traumatic it was. And when we think about the mistakes that were made, we must, I think, reserve some compassion, some compassionate consideration for those who were responsible for the mass evacuations and internment, in view of the terrible shock that Pearl Harbor was to everybody concerned.

But nevertheless, I still believe that the mass evacuation of those of Japanese ancestry and their prolonged detention was a tragic error, and I cannot escape the conclusion that racial prejudice was a basic ingredient.

As a nation, however, we can take some comfort from the fact that, once the ill-advised deed was done, the camps in which these people were confined were humanely administered; and we can take some comfort from the fact that we put an end to the outrage, I think, about as soon as it could be done, in terms of the practical, political situation of the times and the prospect that precipitous action might very well have resulted in widespread violence against these people.

This fact, however, that the camps were humanely administrated does not and should not absolve our nation or relieve our national conscience. Even the trauma of war does not excuse irrational and needless assaults upon human beings and senseless violation of our fundamental constitutional principles far beyond war's bitter and imperative necessities.

I think it is clear, perhaps it was always clear, that the mass evacuation order issued by General DeWitt was never justified. The example of Admiral Nimitz and General Emmons in Hawaii, the Hawaii that was still reeling, a Hawaii that had a fantastic concentration of Japanese people, their example, Nimitz and Emmons, I think, is the most persuasive evidence that there could be that General DeWitt's order was wrong and unjustified.

Similarly, to my surprise it was the conservative Justice Roberts of the Supreme Court dissenting in the Korematsu case, who in my opinion most neatly drew the line. He said that the sudden danger -- this is from his dissenting Korematsu opinion, and I'm paraphrasing -- he said that the sudden danger arising from the commencement of the war might justify the expedience of excluding citizens temporarily from a sensitive and defined military area. He said just as you draw a line when there's a fire, you draw fire lines to keep people away; but this is quite different, he said in dissent, from what took place. And now I

paraphrase: "A vast area of the nation was indiscriminately barred to persons of Japanese ancestry," to persons of Japanese ancestry -- that was the definition. "Persons were selected on a purely racial basis, citizens as well as aliens; they were excluded from parts of their native land, and places where they lived, far beyond the boundaries of any precisely defined military areas."

These people, citizens and non-citizens, just because they were of Japanese ancestry and they lived in the vast territory, were rounded up and forcibly detained. And they were transported to detention centers under army command, and then they were transported to camps, which were surrounded by barbed wire and guarded by the military, from which they were not allowed to depart.

And Justice Roberts points out, one of the features of this process of General DeWitt's order and subsequent order, which I've never been able to comprehend thoroughly, in the original orders that were issued -- the evacuation and detention orders -- these Japanese-Americans were not allowed voluntarily to leave the forbidden area to go inland, away from the coastal areas, to a place of their own choice.

Now Mr. Barrows has indicated that the reason for this was because if they left voluntarily they would encounter hostility. With all respect, and I know

Dr. Barrows and admire him greatly, and the nation owes him a great debt for the job that he did, but with all respect, that to me is a very non-persuasive reason.

The fact of the matter is, these people were not allowed to leave a forbidden area voluntarily to go to a job or whatever of their own selection, but they were forcibly sent to these assembly centers, and then to these detention camps, which is a sad and nationally humiliating story.

The only thing we can say in slight extenuation is that once the unconscionable and irrational deed was done, the officials who were burdened with these consequences proved themselves to be compassionate persons of good will, and they did what they could within the severe limits of the practical situation to limit and alleviate the hardship and injustice of their original action.

When I say this, I always try to remind myself, remember Pearl Harbor; remember that it was war, and even as to those whose actions I most criticize, one must be compassionate. I always think, when I think of General DeWitt in that connection, I think of something that General Wheeler said to me long ago in connection with Viet Nam (he was then Chief of Staff). He said, "The trouble is that in my business there are no prizes for coming in second." And it may be that a lesson to be learned from that story and from what happened here is

story and from what happened here is that we should re-examine the authority that is given to the military commander within the United States and the degree to which that authority can be and is confined and circumscribed.

In any event, in the category of those who did their best after the first deed, I would not feel right if I did not say that, in my experience, persons who were always compassionate, always aware of human values and who did what they could as they saw it consistently with their other responsibilities certainly included President Roosevelt, Secretary Stimson, and Assistant Secretary of War John McCloy, Attorney General Biddle, and of course the Interior Secretary Ickes; and I want most sincerely to join with Leland Barrows in including in that list that extraordinary and remarkable man, Dillon Myer.

Thank you.

CHAIR BERNSTEIN: Thank you very much, Mr. Fortas. Both of these statements are statements of extraordinary eloquence, yours and Dr. Barrows' as well.

Judge Marutani, would you like to address a question to Mr. Fortas?

COMMISSIONER MARUTANI: Yes. Mr. Fortas, I would like to make a comment if I may, in reference to the shock of Pearl Harbor, just simply for the record.

I think it should be pointed out that all Japanese Americans were also shocked by Pearl Harbor, in fact it was a double shock; number 1, we were shocked like all other Americans; the second wave of shock was the realization that in front of that American would be the word "Japanese" and that we would thereby very well be susceptible to suspicion, which of course eventually came about with the grave consequences which you so eloquently outlined.

I do want to state for the record that there was not just one shock for non-Japanese Americans, and that the Japanese Americans were not shocked as Americans; indeed we were, and I think I would just like to state that for the record.

You referred to the Korematsu and the Hirabayashi cases, and of course, you've indicated that Justice Roberts, the conservative, came down on the side -- perhaps if we may refer to it as -- the side of justice, whereas, we find that Chief Justice Stone, Black, Douglas, Rutledge, and Murphy, and a number of other people, who in normal times we would call upon to stand up for the dignity of the human rights, failed us.

I wonder if you would care to comment on that at all?

MR. FORTAS: The only thing I would say about that is that, again, one must be compassionate and careful about making judgments of people, but particularly in time

of war and great crises like this; and that's about all I can say, that is, and I can't tell you really with any assurance how I would have reacted myself. I know profoundly and deeply how I feel now. I hope I would have felt that way then and would have voted that way, but I know that man is mortal and human beings are fallible and that times and events do strange things.

COMMISSIONER MARUTANI: But sir, I quite agree with you. But what troubles me about that is the Bill of Rights is so clear; it is beyond any quibble as to what the Bill of Rights provides, and admittedly, men of great stature, learning, wisdom, compassion, yet seemed to overlook the basics of the Bill of Rights, and that troubles me.

MR. FORTAS: One must be terribly fearful of war, and what the effects of war are. If one wants to avoid acts of humanity, of inhumanity, basically one must avoid war. War distorts people's judgments; war compels decisions that would be inconceivable to the same person in other circumstances. You are aware of that, I'm sure, sir. And if you read Chief Justice Stone's opinion, as I'm sure you have, you will see that it all comes down to a proposition which is a very dangerous proposition but a pervasive one, that in time of war, military judgments must be validated; it's a very dangerous doctrine, and that is why one of the things that I believe -- one of the areas I believe could be considered by your Commission, if I may say so, if it's

within your mandate, is how does one second-guess a military commander like General DeWitt in these circumstances? What machinery, if any, can be devised, should be established, to check the judgment of a military commander with respect to these judgments that are mixed military, constitutional civilian judgments? I'm not suggesting that he be doubled-checked, except by the President ultimately, with respect to military judgments. But the question is whether any mechanism or procedures can be devised so that if we were at war with the Soviet Union, let us say, the general in command of the eastern area would not be able, in a sudden fit or fear or what-not, to say we must incarcerate everybody of Russian descent. I may say, incidentally, that that would decapitate most of our symphony orchestras, and if you included Russian and Japanese, it would decapitate them almost totally.

But it is a problem that in my judgment is worth very serious consideration, because what happened here was, I think, to a large extent, the judgment of a single Army general.

COMMISSIONER MARUTANI: Senator Brooke.

COMMISSIONER BROOKE: Yes, Mr. Justice Fortas, I certainly concur with your assessment of the impact of war. But, I find it difficult to take comfort in the fact that, as you state in your statement, these camps were humanely administered and put to an end the outrage about as soon as it could be done. I just can't

conceive of it being humanely done, when you consider that men, women and children are being trained in a prison or camp, whatever you call it, unable to move about, unable to leave freely; and I think as Justice Roberts has so stated, to live that life -- that certainly is not humane treatment; it could not have been, in my opinion, humane treatment to the people who lived in that camp.

And when you say that it was ended as soon as it practically could have been ended, I guess you're almost talking about almost near the end of the war, when it really ended, in 1944, as I recall the facts, and yet it seems to me that there was time, ample time in that period, for them to have rescinded that order and to have cleared out those camps, but no one stood up to do it; no one took that kind of initiative.

Now you've been very generous to Secretary Ickes, a man for whom I had great respect and I liked, and I'm sure he deserved that respect. But did Secretary Ickes, who had great influence as I understand it from the President, did he ever stand up to the President on this issue? Or did he just allow WRA to be transferred to the Department of the Interior for purposes of giving itself some protection?

MR. FORTAS: Oh no, Senator. I think what you've said, I'm sure you don't intend to, but what you have said does great injustice to a lot of people. Ickes, from the very early days, even far beyond his jurisdiction at the

beginning, which was limited to Hawaii, wrote Roosevelt and talked to Roosevelt about what a horrible thing this was, and I think Roosevelt himself felt that way, after the initial shock -- I know the matter had come up a couple of times in the cabinet meetings, which I attended, but I don't speak with any assurance about it; but there wasn't anybody in this civilian part of the government that I knew, and that includes Secretary Stimson and includes Jack McCloy, who didn't think that this was a perfectly horrible situation and something that should be put an end to as soon as possible.

And when I say that it was to put an end to it as soon as possible, I mean just that, and I think that even now, looking back on it and reading the literature, one can see that it was gone about as quickly as could be done. I'm excluding the initial period, that is to say, I've always felt that the Army could have moved these people into assembly centers or whatever you call it, and then within a month or two, processed them and let them go. The Army didn't do that. I'm talking about the situation that existed after these people, after time elapsed, months elapsed, these people were moved into the so-called relocation centers, and then it was very difficult to move them out. It required a kind of Toscanini sensitivity to move these people out into the

country, and then finally it required the persistence of a tiger finally to get the exclusion order lifted on the West Coast.

When I say it was done about as quickly as it can be done, I not talking abstractly; I'm talking in terms of the reality of those days. Dillon Myer was a hero in his insistence on this, in my opinion. He was denounced by the Dies Committee, by various Congressmen, by the California legislature, and he took it and he never waivered. Harold Ickes was a tiger on it.

COMMISSIONER BROOKE: None of them were able to influence the President. I take it that Secretary Ickes was opposed to it initially -- was he not?

MR. FORTAS: Yes, sir.

COMMISSIONER BROOKE: And the Attorney General was opposed to it.

MR. FORTAS: I don't know personally.

COMMISSIONER BROOKE: And General DeWitt of course was in favor of it, and was the one asking for it, as I understand.

MR. FORTAS: Well, he did it.

COMMISSIONER BROOKE: Yes, he did it, but presumably the President sought his advice before the Executive Order was issued. He had to get the military advice from some source.

MR. FORTAS: I think General DeWitt issued the order pursuant to a general delegation and Executive Order --

what is it -- 9066, I believe; that was a very general order, and then DeWitt issued this order. Whether he consulted with the Secretary of War, Stimson, and whether the Secretary of War consulted with the President, I don't know. But what I do know about General DeWitt indicates to me that he was a pretty tough fellow.

Senator, as you know very well, these things are extremely complex when you try tracing individual -- what individuals might have done. Perhaps the President could have rescinded the order, of course he could have, as a legal, technical constitutional matter, without any trouble; but that's just one of the considerations that a President must take into account in handling his job, and particularly in time of war.

COMMISSIONER BROOKE: I don't think, Mr. Justice that the Commission is looking for anyone to blame for this. I think the Commission is interested in, however, how this occurred in this country and what it can do to prevent it from occurring again. Therefore, it's for us to know what kind of counsel, what kind of advice, what the President sought in making this decision to issue the executive order initally, and if he called upon his Attorney General; and his Attorney General was opposed to it. He called upon the Secretary of War, and I understand it that he was opposed to it, and he called upon the Secretary of the Interior, and he was opposed to it. The best recollection is that there was no cabinet

meeting on it and that the President acted independently which, of course, was within his authority and power to do so after seeking advice from others. It would be interesting for us to know if you know whether Secretary Ickes was called in initially prior to the decision of President Roosevelt to issue the executive order.

MR. FORTAS: In the first place, I don't know. In the second place, I'd be surprised if he was called in. In the third place, I would like to suggest another question.

The executive order is a broad general executive order. It does not call for the mass evacuation of the Japanese from -- of the Japanese Americans from the west coast. The question that would be fascinating to have answered is just what happened before General DeWitt issued the order. Roosevelt didn't issue it. It was General DeWitt's order.

COMMISSIONER BROOKE: General DeWitt's order came as a result of the executive order by the President. He could not -- General DeWitt would not have had the power of authority to issue the order had it not been for the presidential executive order. Is that not correct?

MR. FORTAS: Yes, but I've said to you my understanding. The executive order was broad, a broad order delegating undefined authority, really, to the Western Defense Command, which was General DeWitt. What happened before General DeWitt issued the order would be extraordinarily interesting to know.

COMMISSIONER BROOKE: You mean what the facts were?

MR. FORTAS: No, not what the facts were. With whom did he consult before he issued the exclusion and evacuation order?

COMMISSIONER BROOKE: Do you have any suggestions?

MR. FORTAS: Any suggestion as to with whom he consulted?

COMMISSIONER BROOKE: With whom he consulted?

MR. FORTAS: I hope he consulted with himself. I would rather one person and only one person be responsible for that one.

COMMISSIONER BROOKE: I mean other than possibly his military staff. He obviously didn't consult with the FBI Director.

MR. FORTAS: No, if he consulted with anybody I assume it would have been with the Chief of Staff or the Secretary of War. I don't know, and I've never seen anything written on that. I would be very interested if anybody has any information about it.

COMMISSIONER BROOKE: And query whether he would have issued that order without the approval of the Secretary of War?

MR. FORTAS: You'd think not, wouldn't you say?

COMMISSIONER BROOKE: Yes, I would think not.

MR. FORTAS: But again, I've been around quite a long time, and particularly in times of war, commanders in the theatre have much more authority than the Emperor Nero.

COMMISSIONER BROOKE: I quite agree, particularly in the field, but we were here in the continental United States of America at the time, and there were political issues involved, there were legal issues involved, and here would be a general, what was his rank - lieutenant general or something -- a lieutenant general making that kind of decision which had such ramifications far from the military circumstances under his command. I just can't conceive that he would have done so on his own, acting independently, knowing generals. He probably wanted to be a full general, and he probably would not have gone that far on the limb; I just can't conceive of it.

MR. FORTAS: Well, Senator, having known and admired you for all these years, I'm sure you can conceive the inconceivable, and the inconceivable happens sometimes.

COMMISSIONER BROOKE: Well, I think we're trying to get up the conceivable facts. But thank you very much, Mr. Justice.

CHAIR BERNSTEIN: Father Gromoff, do you have any questions?

COMMISSIONER GROMOFF: I was going to ask about the Aleuts. You already gave your statement here.

MR. FORTAS: About what?

COMMISSIONER GROMOFF: The Aleuts.

MR. FORTAS: I know nothing about them.

COMMISSIONER GOLDBERG: First of all, I would like to compliment Justice Fortas on probably the most

eloquent statement we've gotten today. I have no questions to ask.

I would, however, like to correct a statement that he made. I agree with the Secretary which he served so well. I have before me a letter of June 2, 1944, when the problem was presented to Secretary Ickes. And I'm sure the Justice is very modest, as the Under Secretary upon whom the Secretary relied, and had something to do with this letter. He may have forgotten it. And I shall read a few sentences here: "The continued exclusion of American citizens of Japanese ancestry from the affected areas is clearly unconstitutional in the present circumstances." Apparently there is no basis in law or equity for the preservation of man. Unlike -- I'm sorry to say this -- the Attorney General is a friend of mine -- this statement was written to the President and delivered.

Secondly, in reference to what Senator Brooke said, there appears to be, as we'll have to look into the books written on the subject, the fact that General DeWitt who was, like myself, a civilian in World War II, all of a sudden got a uniform. As it happened in my case, his order was issued, Mr. Justice, after there was consultation to Colonel Bendetsen, and the Assistant Secretary of State and the Assistant Secretary of War, McCloy. Senator Brooke has put his finger on it.

After all the military are subject to civilian direction, and DeWitt would not have done that. So the

record, the transcript which have appeared, telephone transcripts, show that.

And the third remark I would like to make is that it occurs to me that we all make mistakes. I'm sure, Mr. Justice, you will agree with me; I would like to live over my life and not make the mistakes I have made.

There is a little reluctance that I've detected in people involved; we will come to Colonel Bendetsen's statement; he was involved and participated in meetings. Nobody -- we are anxious to put anybody on trial. I think it terribly important, and I would hope that people who were involved, not yourself, the record here is a very plain record. The Department of Interior, people who were involved with the evacuation and I don't understand the great reluctance so far, and we'll get Colonel Bendetsen's statement, and I ask that he be subpoenaed. There is no statement that says we made a terrible mistake, that simple. We all do that in our lifetime.

But I think that the Justice has said what has to be said, that this was a racist decision. Also, he and I both recall service on the Supreme Court; there were fits of violence, but just as you participated in the decision, so did I. When there's a threat of violence as there was in the civil rights cases it is a function of government to protect people from violence and distress. They don't have to be put in camps.

The Government should protect them from violence, and the established legal documents to supply in Edwards and many other cases which have followed; and I think that certainly applies to this situation. But I for one want to compliment the Justice for what the Department of Interior did. I'm sure right at the beginning, knowing Secretary Ickes the way the Justice has described him, and knowing Justice Fortas, they said what had to be said, and I'm very troubled the Attorney General did not, as we heard this morning, he didn't say to the President "no way," to use a popular expression, and that apparently did not happen, and we will have to go into that.

There is a final correction of the record which I hope you won't mind. Justice Murphy also dissented in Korematsu. He did not join in the jury.

CHAIR BERNSTEIN: Mr. Mitchell.

COMMISSIONER MITCHELL: Yes, I don't have a question, but just an enlargement possibly on Senator Brooke's questioning. In reading the literature of today on the happenings of that day, you have a very definite impression that everybody was working in a vacuum. The Interior Department didn't meet with the Justice Department, the Justice Department didn't meet with the War Department, and out of that the inference of the literature, a good deal of the literature, is that the President made up his mind on a personal basis, and all of the departments followed through.

I would like your comment on that just as much as you can.

MR. FORTAS: I don't know, Senator, that, as you put it, is difficult question to answer. There was a great deal of exchange, as I remember, particularly with the War Department, and on various levels, forgetting the administrative level. There was a great deal of exchange on the policy level, and I'm sure that I had a number of meetings with John McCloy, and he was an advocate for their point of view; they had a different mission, and necessarily, their judgments were colored by their own special responsibility.

But there was a great deal of interchange among the departments, and I, knowing somewhat after long years of service with President Roosevelt, knowing something as to how he worked, but I expect that he got a fairly -- as much as a fill-in from the Department as could be expected. Of course there were a few other things going on in those days.

COMMISSIONER MITCHELL: I'd ask this one additional question, to what extent did the Lippmanns and the Peglers have in reaching the government -- was propaganda at that time effective in --

MR. FORTAS: Yes, propaganda is a fact when you're in a government position, you deal with the facts of society, and publications by Walter Lippmann, by Pegler, things that appeared in the San Francisco Chronicle

or anywhere else, those are facts which you have to take into account and with which you have to deal. It doesn't mean that you acquiesce, but it means they are facts with which you must cope to achieve the results you think are right.

COMMISSIONER MITCHELL: Don't you think it strange that the combination of great talents, the liberal Walter Lippmann and conservative Pegler supported this action? I won't ask for an answer.

CHAIR BERNSTEIN: Mr. Fortas, as you know part of the mandate of this Commission is to make recommendations, and I was intrigued by your suggestion that perhaps one way to avoid this type of thing occurring in the future would be a check on military decision-making. Have you given any thought to how that might be done, rather, more specifically, should we consider limiting, for example, the delegation authority? The breadth of that order and the breadth of the delegation authority raises perhaps a question; in any event, do you have any thoughts on that?

MR. FORTAS: No, I did not advance that as a suggestion as to something that ought to be done; but it is something that, in my opinion, ought to be studied with the greatest care, that is to say that when there is a time of war, should there be some restrictions, some checks on the authority of the military commanders in the various areas of the country; can such checks be devised without hampering the essential military job to be done?

And I think it is a subject worth studying. Perhaps it has been studied. I don't know of any study specifically directed to that question, and perhaps the incident on the West Coast, evacuation and internment of those people, is an excellent subject for such a study.

CHAIR BERNSTEIN: Thank you.

I would like to thank you again for your participation and thank Justice Goldberg for being so persuasive as to get you to appear before us.

The Commission will recess for lunch for one hour. We're running behind so I would like to return in an hour, please. I have one message from the staff which would like to contact Mr. Orville Shirey who was in the audience, I believe, before going forward.

Again, my thanks to all of you. We will see you in one hour.

(Whereupon, at 1:30 p.m. the luncheon recess was taken.)

AFTERNOON SESSION

2:40 P.M.

CHAIR BERNSTEIN: The Commission will reconvene.

The first four scheduled witnesses for this afternoon are from the following departments of the government, the Department of Justice, Interior, Department of the Army, and the Department of State. Three are represented at the present time in the hearing room I believe, and if you are will you please come forward to the witness table.

I'm sorry, I don't know how to identify you. If you'd come forward and sit down then perhaps we could have you just identify yourself and then deliver your statements on behalf of your department.

I think the Department of the Interior is not here, so we may have one empty chair.

STATEMENT OF C. WILLIAM LENGACHER

MR. LENGACHER: My name is C. William Lengacher, I am Chief Judgment Enforcement in the Civil Division of the Department of Justice. I'm administrative head of the office which assumed most of the responsibility and the personnel of the old Japanese Claims Section.

It is my pleasure to appear today before the Commission on Wartime Relocation and Internment of Civilians, to present a statement from the Department of Justice defining the historical role played by the Civil Division in the 1942 Wartime Relocation and Internment of

Civilians of Japanese and Aleutians Indian ancestry.

During World War II more than 120,000 Japanese American citizens and permanent resident aliens of Japanese descent were detained, interned, forcibly relocated by the United States because the government believed this drastic step was necessary to prevent espionage and sabotage. While a small number of these people, about 2,000, were apprehended shortly after Pearl Harbor and held in custody as enemy aliens under the Alien Enemy Act, martial law, the vast majority were detained and interned because they lived too close to the west coast. They received evacuation orders issued under Executive Order 9066, dated February 19, 1942, which authorized the military authorities to designate military areas from which any person could be excluded and required military authorities to feed, shelter and transport the persons evacuated from such areas.

Additionally, nearly 1,000 Aleut Indians were relocated and interned under a similar order, because of their proximity to the war zone.

Beginning March 24, 1942, the evacuees were detained and interned at nearby assembly centers, and/or relocation centers for periods varying between a few days and four years. While it was the policy of the War Relocation Authority to quickly resettle the evacuees in nonrestricted areas, this process was slow. At the war's end, the centers still contained a population of over 50,000 people;

the last relocation center was not emptied until the last of March 1946. Although precise figures are unavailable, we estimate that the period of detention of internment of evacuees averaged about two years.

Most of the evacuees had less than a week to arrange their affairs before they were required to leave their homes, places of business and farms with only the possessions they could carry. The government agencies which were designated to assist the evacuees in the disposition and preservation of property did not have sufficient time to institute adequate means of protecting the evacuees' interests before the evacuation began. Consequently many of the evacuees sustained property losses in various ways, such as forced sales at far less than fair market value, abandonment, lapsed insurance policies, foreclosures, theft, vandalism, arson and waste.

After the war the Federal Government recognized that the evacuees had to bear losses occasioned by their evacuation and exclusion in addition to the wartime deprivations they had shared with the rest of the American people. To alleviate to some extent the disproportionate financial burden that the Government's war measures had thrust upon the evacuees, the 80th Congress enacted the Japanese American Evacuation Claims Act.

This Act authorized the Attorney General to receive, adjudicate, and after a 1951 amendment, compromise claims submitted by eligible persons of Japanese ancestry

for damages or losses of real or personal property resulting from their evacuation. This legislation specifically excluded payments for damage on account of death, personal injury, personal inconvenience, physical hardships, personal suffering, and for the loss of anticipated profits or the loss of earnings. The Act was further amended in 1956 to permit payment of compensation to a designated group of Japanese alien enemies who were excluded from coverage under the original act.

The evacuation claims program commenced on July 1, 1949. Evacuees had 18 months from that date in which to submit claims. The Japanese Claims section in the Civil Division was established to process and litigate those claims. When this program was concluded with the last award on November 10, 1958, the Department had received 26,568 claims and awarded $36,974,240 for settlements to the claimants.

I'm not prepared to answer any questions at this time. The Department of Justice will, however, respond to any written questions submitted by the Commission.

CHAIR BERNSTEIN: Thank you.

COMMISSIONER BROOKE: Madam Chairman, might I just ask this -- no question on the subject on the matters you discussed, but what was the source of your information? Is it Justice Department files?

MR. LENGACHER: The files are in the custody of the Judgment and Enforcement Unit of which I'm the administrative head; and I studied those files over the five years that I've headed up the Judgment and Enforcement.

COMMISSIONER BROOKE: You did the research there yourself?

MR. LENGACHER: Yes, sir.

COMMISSIONER BROOKE: And that formed the basis of your report?

MR. LENGACHER: Right. My predecessor was a chief of the old Japanese Claims Section, and he kept extensive records of the whole Japanese Claims program.

COMMISSIONER BROOKE: Dating back to the date of the executive order?

MR. LENGACHER: No, sir; dating back to the Japanese Evacuation Claims Program, which began in 1948.

COMMISSIONER BROOKE: And not prior thereto?

MR. LENGACHER: No, sir.

COMMISSIONER BROOKE: If we were looking for an opinion of the Attorney General to the President in 1942, you don't have any knowledge that we could find it in your files?

MR. LENGACHER: No, sir; I confined my comments to the Civil Division.

COMMISSIONER BROOKE: Dating from 1948?

MR. LENGACHER: Yes, sir.

There were other divisions that were involved with

9066; the FBI and Immigration and Naturalization Service, the U.S. Attorney's offices.

COMMISSIONER BROOKE: Thank you, Madam Chair.

CHAIR BERNSTEIN: Thank you very much.

COMMISSIONER GOLDBERG: May I ask one question?

When the Attorney General sends an opinion to the President of the United States, is that opinion then published as an opinion of the Attorney General?

MR. LENGACHER: Yes, sir; I believe they are.

COMMISSIONER GOLDBERG: And therefore, if the Attorney General sent a communication to the President in 1942 in reference to an executive order issued then, 9066, if the Attorney General of the United States had sent an opinion to the President, it would appear in the publication of the Department of Justice, wouldn't it?

MR. LENGACHER: I really don't know your answer. I would imagine so but --

COMMISSIONER GOLDBERG: Then in following Senator Brooke's question, does not the Department of Justice -- and I've heard what you said. Does not the Department of Justice maintain records going way back, back to '42?

MR. LENGACHER: I can speak for the Civil Division, I do know that the Department of Justice has extensive records relating to the individuals who were removed from the west coast and excluded from the west coast, there are many records in the archives under our jurisdiction.

COMMISSIONER GOLDBERG: Then I have a question to ask, then why does not the Department of Justice since this Commission authorized under the act of Congress has asked for a complete report from the Department of Justice as to its role, why do they transfer it to you who are not responsible, obviously. Is there not someone in the Department of Justice, historian, or someone who can give us a comprehensive report so our commission can fulfill its statutory mandate?

MR. LENGACHER: I'll certainly ask that when I go back.

CHAIR BERNSTEIN: I think it's a bit unfair to ask Mr. Lengacher to respond to that, Mr. Goldberg. I think we will need to follow up with the Department, perhaps after today's hearing, to see whether we don't need to have more complete reports from other parts of the Department.

Thank you very much, Mr. Lengacher.

Mr. Fred Beck, of the Department of the Army.

STATEMENT OF FRED BECK

MR. BECK: Thank you Madam Chairman, gentlemen, the Commission.

I've been asked to comment briefly on the role of the Armed Services in the evacuation of the Japanese population from the west coast during the first year of World War II. Although I speak today for the Department of Defense, the events in question occurred at the direction

of the old War Department, the forerunner of today's Department of the Army.

The War Department's part in what remains today a dark interlude in American history was the central if not overriding one. The relocation of the Japanese has been variously attributed to purely political and economic expediencies fueled by pre-war racial tensions coming to a head in a post Pearl Harbor hysteria.

There's no argument that the Army was the single agent that formulated the instruments that gave the relocations the force of law and administered their execution. There is also no doubt that those measures, justified on the basis of military necessity alone, were immensely popular among a largely hostile citizenry.

The Army's defenses on the west coast in 1941 were an aggregate of the 9th Corps Area, which was a peace-time administrative structure, and 4th Army, a tactical unit with no troops assigned until after Pearl Harbor.

In June 1941, responding to increasing tension over Japanese expansion in Asia, the War Department established the Western Defense Command, superimposed over these previous commands. Responsible for all of this and wearing three hats, as we say, was Lt. General John L. DeWitt, a 61 year old veteran of World War I, Philippine duty and several high level Army assignments. DeWitt's area also included all of the territory of Alaska, where he had already begun a belated improvement

of the defenses in 1939.

Within this area also was the bulk of the Japanese minority then living in the United States. In 1940, of a total of 126,947 Japanese in the country, 112,353 were in the west coast states, 93,717 in California alone. The victims of exclusionary immigration laws, some 40,869, or 43.5 percent, were resident aliens called Issei.

In July 1941 the War Department and the Federal Bureau of Investigation agreed to leave to the FBI control of the aliens if war came. The FBI also received military and naval intelligence reports on Japanese espionage identified in the western hemisphere, and surveillance reports of such martial organizations as the Black Dragons, and a quasi-criminal network known as the Tokyo Club.

Although military and domestic intelligence agencies paid special attention to the Kibei, that group of American of Japanese ancestry who went to Japan for an education, no intelligence service made plans for mass evacuation of Japanese population before the war, and all of them resisted that idea after Pearl Harbor. German and Italian alien suspects were also marked for detention. In Hawaii, with a population of 500,000, 160,000, or 32 percent, were of Japanese extraction, constituting a major part of the island's economic base. Alaska, by comparison, had a miniscule alien population. In the context of the time, when the breathtaking German conquest of Western Europe in

1940 was regarded as heavily abetted by fifth columnists, 1,100,000 registered aliens in this country had emigrated from countries hostile to the United States in World War II, and at least some of them could be regarded as potential saboteurs.

The Japanese attack at Pearl Harbor produced immediate effects on the western mainland. From a purely military organizational standpoint, one development had a bearing on the treatment of all civilians in the area. On the 14th of December 1941, the War Department made the Western Defense Command a theatre of operations, giving General DeWitt yet another hat; he now commanded a war zone.

According to the field service regulations in force at that time, the theatre was organized for tactical and administrative control, and was designed for offensive action. To sharpen an understanding of this particular military usage, I might add that when General Eisenhower took the war to the Germans in November 1942, he commanded the North African Theatre of Operations; General MacArthur commanded the Southwest Pacific Area, another theatre; and the Normandy invasion and the defeat of Hitler took place within the European Theatre of Operations. The theatre commander must ensure the security of all of his lines of communication and he can, and in World War II overseas he generally did provide a theatre staff element devoted entirely to planning for the welfare, the employment, and, where necessary, the control of civilians.

This staff element was designated G-5; its military government functions also included the apprehension of known civilian agents of the enemy. In short, from a purely military outlook, the presence of the Japanese population in the western theatre of operation would have occupied, to some degree, the attention of any other theatre commander even if he did not harbor the particular feelings on the Japanese race that General DeWitt did. The Eastern Defense Command, for instance, headquartered in New York, had the same difficulty with German and Italian residents, aliens, but never resorted to the measures that were practiced in the West.

Immediately after Pearl Harbor, the detention by the FBI of suspect alien individuals, as individuals, went with reasonable dispatch everywhere, including in the Western Defense Command. Only afterwards did the sequence of decisions unfold that concluded with the internment of all Japanese, even those who were American citizens.

In the single month after the attack, public anti-Japanese opinion in the West began reaching fever pitch. General DeWitt favored moving all aliens to the interior and also favored enhanced powers for the Justice Department to conduct raids on suspects in accord with Presidential proclamation on security, Executive Order 8972 of 8 December 1941. But he was adamant in his opinion that the already prevalent suggestion for interning naturalized Japanese and citizens was unnecessary. He

repeatedly represented this in his telephone calls to Major General Allen V. Gullion, the Army's Provost General in Washington, who himself wanted to transfer the West Coast Alien Control Program to the War Department.

To coordinate War and Justice Department activity, Gullion sent the chief of his Alien Division, at that time Major Karl R. Bendetsen, to San Francisco in early January 1942 for consultations.

Bendetsen, a lawyer on active duty for only one year at that point, was to become the central figure in the mass evacuation scheme. At the January meetings, he originated the system of strategic zones and recommended passes and permits. After the Justice Department, on the 9th of February, admitted that it could not handle the proposed alien evacuation from 99 strategic areas named by General DeWitt, the War Department in essence moved to take over alien control.

On February 14th, amid what was by now an anti-Japanese hysteria, DeWitt petitioned the War Department for a Presidential executive order empowering him to exclude either citizens or aliens from designated military areas. By 19 February 1942, General Gullion had a draft of the order staffed through the senior levels of the War Department, obtained reluctant Justice Department concurrence, and had the President's signature on what was thereafter known as Executive Order 9066.

This order enabled a military commander, delegated through the Secretary of War, "to prescribe military areas in such places and of such extent as he ... may determine, from which any or all persons may be excluded ..." On the 21st of March Gullion's draft legislation, adding legal sanctions to the order, passed Congress as Public Law 503.

A War Department memorandum of the 20th of February gave DeWitt further instructions on how to classify individuals and emphasized the voluntary nature of the exodus once the uprooted persons had moved from the restricted areas.

In March 1942 General DeWitt began issuing a series of public proclamations based on his new authority. On the 2nd of March he established military areas Number 1 and Number 2, no longer attempting to delineate single sometimes overlapping strategic areas. Number 1 was a strip averaging 150 miles wide down the coast from Canada to Mexico, and taking in all of southern California.

Area Number 2 paralleled the first and encompassed the eastern region of the three coastal states. Acting on earlier Justice Department orders of the 4th of February and earlier, which established curfews and regulations for permanent changes of residents, and with the establishment of the military areas, some 4,889 Japanese voluntarily migrated.

Proclamation Number 4 of the 27th of March 1942

was the forerunner of forced evacuation. It froze all further movements in both military areas.

Proclamation Number 7, on the 8th of June, then excluded all persons of Japanese ancestry, alien or non-alien, from Area Number 1. To handle this new development, DeWitt on the 11th of March established a civil affairs division, G-5, in his command, and the following day also established an executive agency, the Wartime Civil Control Administration. Both of these new entities were head by Karl Bendetsen, who came from Washington, now a full colonel.

Concurrently, evacuation began through the publication of exclusion orders, 108 of them in all, which named specific localities in which Japanese inhabitants were isolated, gathered into assembly areas, and then assigned to one of ten relocation centers for the duration of the war. With the exception of Rohwer and Jerome in Arkansas, all of the sites were in desert environments with extremes of climate. Manzanar and Tule Lake were in California; and the latter was the center for those under heavy suspicion or those who answered questions about their loyalty incorrectly or not at all. Minidoka was in central Idaho; Heart Mountain near Cody, Wyoming; Topaz in Utah; Gila River near Phoenix; Poston near the California border; Granada in southeastern Colorado. For all of these movements, the Army provided medical staff and an armed military police escort.

By the command's count, it had moved 110,442 evacuees who eventually received in government settlements on their property claims valued over $400,000,000, only $38,474,140 or about 10 cents on the dollar.

The War Department further involved the Corps of Engineers in constructing all the necessary shelter and facilities at the camps. In each camp, the Western Defense Command turned over its charges to the War Relocation Authority, a civilian agency established on the 18th of March by Executive Order 9102, to run the relocation centers.

On the 22nd of November 1942, the Western Defense Command turned over all formal responsibility to the War Relocation Authority but it did not relinquish all control. The Army still supplied the military police who quelled several notable disturbances in the centers and escorted anyone travelling outside. It administered loyalty tests, and it recruited in those camps after 1943 the men who joined the 442nd Regimental Combat Team, whose exploits in North Africa and Italy are legend.

For General DeWitt, his theatre rear areas now unencumbered by the threats of fifth column activity, the Western Defense Command returned to face the Japanese air attack that he had awaited since December. It never came.

CHAIR BERNSTEIN: Does that complete your statement, Mr. Beck?

MR. BECK: Yes.

CHAIR BERNSTEIN: Thank you very much.

We will continue the order of our questioning.

COMMISSIONER MARUTANI: There are several questions that I would like to ask. First of all, could you give us your position?

CHAIR BERNSTEIN: Would you give us your title?

MR. BECK: Yes, I'm the Executive of the Historical Services Division, United States Army, Center of Military History.

COMMISSIONER MARUTANI: And could you state for me what the thesis of your presentation is? I'm not quite clear. Does it have a thesis at all?

MR. BECK: I did not start out to put a thesis to it, however I think the facts will speak for themselves that at this date the Army perhaps takes no pride in this particular event, there's no way to put a clean shirt on it.

COMMISSIONER MARUTANI: Well, what troubles me, if you purport to report facts, is the way you've presented them. To be quite candid with you, at one point you referred to enemy aliens on the east coast, the Germans and so forth; and then the transition was made over to the west coast as if we were talking about the same type of people, when we're talking about United States citizens, not enemy aliens any more but you sort of lumped them together and therefore what is good for the goose on the east coast, that is the German aliens and Italian aliens, who elected apparently not to take out

United States citizenship, whereas over on the West Coast it was prevented by the 1924 Act from doing so, and therefore they end up being enemy aliens, but again they are, a goodly percentage of them, are United States citizens; and then I guess with the enemy aliens you would include women and babies, because they were all removed.

This is the kind of transition that I find a little troubling if your report is a factual report.

MR. BECK: The paradox I was trying to draw of course is that in the Eastern Defense Command, which was a theatre of operations in the same way as the Western Defense Command was, there were no mass evacuations, alien suspects were rounded up by the Justice Department according to plan. This makes the events in the Western Defense Command stand out all the more startling.

COMMISSIONER MARUTANI: Well, you also refer to alien and non-alien Japanese, Japanese ancestry individuals, alien and non-alien. What is a non-alien?

MR. BECK: That was General DeWitt's particular usage.

COMMISSIONER MARUTANI: Yes, but what is "non-alien"?

MR. BECK: A citizen.

COMMISSIONER MARUTANI: Why can't we say "citizen." I mean, let's call a spade a spade; and let's stop using these evasive terms, and they are evasive. See, I'm not a non-alien, I'm a United States citizen bona fide, and these people here in this room are citizens,

not non-aliens.

And then the other thing that I noted is you spoke of armed military escorts. They weren't escorts. An escort is to protect you. I think they were more guards, weren't they, to make sure you wouldn't get away.

MR. BECK: Yes, oh certainly.

COMMISSIONER MARUTANI: You might say this is quibbling with words, well, it may be, but again I do want to amend your report if it is supposedly factual, that we do not use these terms about armed military escorts, when in fact they were guards watching over the people to make sure they wouldn't go, or went where they didn't want them to go.

I'm sorry about that, but I did want to direct your attention.

CHAIR BERNSTEIN: Senator Brooke?

COMMISSIONER BROOKE: Mr. Beck, I concur with Judge Marutani's distinctions, and I think you do as well.

But I want to commend the Army for what appears to be a scholarly research work, better than I think we've heard to date. And I just want to go over one matter with you which does not seem to conform with some of the testimony we've heard.

According to the Army records here, and correct me if my sequence is wrong, that this evacuation scheme as you put it, was initiated by General DeWitt, and it was sent to General Gullion, and the Army Chiefs of Staff

presumably in Washington; they made their presentation to the Justice Department as well, and to the President of the United States; and that the Executive Order 9066, which was issued by the President, was issued after reluctant acquiescence by the Justice Department, is that correct?

MR. BECK: Yes, sir.

COMMISSIONER BROOKE: Now, what documentation do you have to support that there was acquiescence or agreement, however reluctant, by the Justice Department?

MR. BECK: There's an account of a meeting among General Gullion, a number of other members of the War Department, and Provost Marshal General's staff, and members of the Justice Department, including Attorney General Biddle. I believe Mr. Rowe was there, and Mr. Ennis, on the 17th of February, two days before the actual issuance of the executive order.

The Justice Department members, when they heard the rendition of the draft that General Gullion read, were at first amazed, and the attendees later, one of them at least, testified later that Mr. Ennis -- that's the only identification I have of him -- was close to tears at the end of this meeting because he couldn't believe the contents of the executive order.

At the time, the military necessity argument overrode just about everything else. No one was willing to argue at great length with that particular presentation of the strategic situation, although as I think General Clark

may tell you later on today, the situation was not as serious as it was being made out. Yet in that climate, the executive order passed and was signed by the President.

COMMISSIONER BROOKE: Does your record reveal any participation on the part of Secretary Stimson?

MR. BECK: Secretary Stimson in his memoirs, after the War, published in 1946 and edited by McGeorge Bundy, revealed that he knew and certainly was party to the decision-making process that brought this out; and he too again cites the argument from military necessity.

COMMISSIONER BROOKE: Did Secretary Stimson agree to the executive order as drafted?

MR. BECK: Well, yes, he concurred in it.

COMMISSIONER BROOKE: Did he concur reluctantly?

MR. BECK: I don't have an adverb to describe his actions, sir, I'm sorry.

COMMISSIONER BROOKE: Does your record indicate Secretary of the Interior Ickes' participation?

MR. BECK: On Ickes' role, no, sir; I have no information.

COMMISSIONER BROOKE: But at any rate, we do know from your records that General DeWitt initiated, he went to the high command in Washington; they reviewed it, Justice reviewed it, and then the recommendation was made to the President to issue the executive order, is that correct?

MR. BECK: The sequence is probably a little more complex than that.

Opinion was already coagulating in the War Department for some time in favor of a wholesale, that is, citizens and aliens alike evacuation.

General Dewitt, for his part on the west coast, was subjected to the hysteria that had broken out there beginning roughly in January, and then further was exacerbated by the release of the Roberts report which claimed that there had been much Japanese espionage and sabotage at Pearl Harbor. This induced a wave of anti-Japanese hysteria on the west coast.

What does exist are records of telephone conversations between General DeWitt and General Gullion, in which you can see the rising tension on this accord, on that matter. At both ends of the telephone line opinion is solidifying in favor of this mass evacuation. And these records still exist.

COMMISSIONER BROOKE: Would you supply for the record citations to records and documents that you used in your research to arrive at the conclusion that you have presented to us this afternoon?

MR. BECK: What I used to construct this was mainly secondary resources and accounts of the whole affair, both official and unofficial. Since the time was short I did not have time to get into the actual records. Those I recommend to the Commission staff and will make them available to you.

COMMISSIONER BROOKE: You say telephone conversations. You must have some record of those telephone conversations.

MR. BECK: Well, these are cited as well in various secondary sources to demonstrate what General DeWitt's mind was and how the planning was going in the War Department.

COMMISSIONER BROOKE: Will you make that available to the Commission?

MR. BECK: Yes. These are in published sources and are available through either the Library of Congress or --

COMMISSIONER BROOKE: You'll give us a citation?

MR. BECK: Yes, certainly.

COMMISSIONER BROOKE: One further question: Were there any groups that were adding fuel to the flames and arousing these anti-Japanese sentiments and hysteria which has been referred to in your testimony? Such as to name one, the type of organization like the Ku Klux Klan. Did you have organizations to contend with in 1941 and '42 that were whipping it up and getting people into a frenzy which created this climate?

MR. BECK: Well, the most notorious, the one I have seen cited the most frequently is something called The Native Sons and Daughters of the Golden West, I believe.

COMMISSIONER BROOKE: That was one. Do you have any others?

MR. BECK: It's necessary to say that the others were not necessarily hate groups as such as we define them today, but the legitimately constituted authorities within local counties, for instance, the Los Angeles Chamber of Commerce, various trade and agricultural associations on the west coast.

COMMISSIONER BROOKE: Economic groups primarily?

MR. BECK: Yes.

COMMISSIONER BROOKE: More than racially, they were economic?

MR. BECK: Yes, sir.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: Do you recall the Department of the Army's role in the evacuation and resettlement of the Aleuts during World War II?

MR. BECK: I did not mean to gloss over them and indicate that it did not happen, but I have not had much access to secondary material that discusses the Aleuts. I am aware that the Pribilof Islands were evacuated, particularly the Island of St. Lawrence, in the interest of putting out there a military intelligence team which was to conduct radio intercept, and whatever other observations it could of Japanese movements in the Pacific.

There were two other islands that were inhabited, and I'm not sure of the timing or the extent of the evacuation of those populations.

The Japanese populations and the Aleuts from Alaska

generally were also brought to the relocation centers in the contiguous 48 states. But these records will also exist in the Alaska Defense Command or the military records eminating from those geographic locations in Alaska.

COMMISSIONER GROMOFF: The Aleuts were relocated because of General DeWitt?

MR. BECK: Until 1943, when the Alaska Defense Command was established, General DeWitt controlled those areas, and so his writ extended to Alaska. The policy that was prevailing in the western states also extended there.

CHAIR BERNSTEIN: Further questions?

COMMISSIONER GOLDBERG: May I commend you very much on your statement, particularly the honesty and candor that you have displayed. I refer to this specifically and I want to read from your statement, you speak for the Department of Defense because now the War Department is dissimulated, so I want to read: "The War Department's part in what remains a dark interlude in American history was the central, if not overriding one," and your study as historian, I presume, from secondary and other sources, I assume, establish what you have said.

MR. BECK: Yes, sir.

COMMISSIONER GOLDBERG: And I must say that this is the first of all the governmental witnesses that we've heard that has said that plainly and forthrightly. That does not mean there's no explanation for it. War had broken out and the whole country was concerned, as

you said, there was a good deal of public hysteria, but I do commend you for a very forthright statement in that respect.

MR. BECK: Thank you.

COMMISSIONER GOLDBERG: I do have one question to ask you. I would like to ask you something now which perhaps you can't answer now, and you may want to look at your records to establish it so you can send it to the Commission.

I presume that as a low ranking major in World War II, that even when generals are involved, they must go through the chain of command in the Army. Is that not your experience as a historian?

MR. BECK: Yes, sir; that's the normal procedure.

COMMISSIONER GOLDBERG: And therefore, it would be normal, even with General Gullion, the Provost Marshal, if he were to authorize an evacuation of 110 to 120,000 American citizens, it would require, under our Constitutional frame, approval as Senator Brooke has indicated, by Secretary of War, or by Assistant Secretary McCloy, or some civilian who would be the ultimate authority. Am I correct on that?

MR. BECK: The line would lead up through the military chain to a civilian, yes.

COMMISSIONER GOLDBERG: So that no general by his own authority, General DeWitt, General Gullion, could say we're in danger, and it wasn't a theatre of actual military operations for a general to have much more authority; it was best a threatened potential worrisome

problem. This being the case, to take that basic decision would have required authorization, am I wrong about that from my recollection of World War II? In my brief experience in the Armed Forces?

MR. BECK: At the War Department level, the general staff is after a planning organization. What it would produce would be any number of different schemes or courses of action which may lay around in safes for years until an event triggers their use.

COMMISSIONER GOLDBERG: Sure.

MR. BECK: Once that -- once the situation demands that a plan be called up and put into effect, it would normally be updated; the Chief of Staff at that point would definitely be involved in it, especially if it involves any impact on a civilian population; possibly the White House would be the next thing in line, if it involves a political issue.

COMMISSIONER GOLDBERG: And doesn't your reference to telephone conversations and so on, -- did your study show what I have read in the published material, these secondary sources, that the Secretary's office was very importantly involved through Assistant Secretary McCloy?

MR. BECK: Yes.

COMMISSIONER GOLDBERG: And that no one, as I have said, no general on his own would take 110 or 120,000 American citizens and evacuate them. That would require concurrence on a civilian level, under our constitutional--

MR. BECK: Very definitely.

COMMISSIONER GOLDBERG: Isn't that so?

MR. BECK: Yes, even in wartime.

COMMISSIONER GOLDBERG: Well, again, I want to commend you, because I regard it to be -- I can only speak for myself as a member of the Commission, I think it is quite salient that all of us in the Government, and I served in many capacities, that in the Government, if a mistake has been made and it's due to understandable or not understandable wartime problems, that we frankly say it was a terrible mistake, it's a dark chapter in our history.

You have done that and you are entitled to great commendation.

CHAIR BERNSTEIN: Commissioner Mitchell?

COMMISSIONER MITCHELL: At the end of the line here, most of my questions have been answered, but I'm wondering whether it would be fair to capsulize your testimony as saying that Colonel Bendetsen originated, General DeWitt petitioned, General Gullion drafted, and the President signed.

MR. BECK: That would be the sequence. But there is a good deal more detail in the story, and it takes place over so much more time.

COMMISSIONER MITCHELL: But basically the War Department was essentially responsible?

MR. BECK: For that sequence of events, yes.

COMMISSIONER MITCHELL: Is it not true that there

was a conference -- did you read that secondary source, where Gullion and the Department of Justice and everybody was present --

MR. BECK: Yes.

COMMISSIONER MITCHELL: And Gullion pulled out the executive order and then it was worked on, the Department of Justice participated and so on, and then approved by either Stimson, McCloy, wouldn't that be about right?

MR. BECK: Yes, that was the meeting of 17 February.

COMMISSIONER BROOKE: Was Biddle present at the meeting?

MR. BECK: I believe he was, and as I said the Justice Department concurrence was very reluctant.

COMMISSIONER MARUTANI: If I may just switch over to the Alaskan situation as to the Attus and the Akutans and on Kiska. You removed, I believe, the Army did evacuate the Aleuts along those islands, but did they not also leave people behind?

MR. BECK: Now that's something I've not had a chance to do much research into. There the threat of an actual invasion of course --

COMMISSIONER MARUTANI: As a matter of fact the Japanese had, I believe, attempted to land on Attu at the time, this was in June of '42.

MR. BECK: Yes, and did, and bombed Dutch Harbor.

COMMISSIONER MARUTANI: You have not run across

the evidence as to whether or not when they removed the Aleuts that they in fact did leave people behind on Kiska and perhaps on Attu, but on Kiska?

MR. BECK: The published works that I've been able to use have not referred in great detail to that area of the world, but I'm sure the story exists in the documents and we have not had a chance --

COMMISSIONER MARUTANI: I might add, I have come across some information that fact non-Aleuts did remain back in Kiska, and so this raises some question as to exactly what the Army's purpose was in the evacuation.

COMMISSIONER GOLDBERG: This thought occurs to me. We have had much testimony that there was no disloyalty established about the 110 or 120,000 Japanese Americans. From your historical record, was any evidence offered about any disloyalty on the Aleuts?

MR. BECK: There again I have no information. The general statement was there was never a proven instance of disloyalty among these elements at all.

CHAIR BERNSTEIN: Mr. Beck, I join with my colleagues in commending you for an outstanding statement. As you know, this is the initial hearing of this body and the beginning of our inquiry; I will and I know my colleagues will appreciate your continuing to work with our staff in the examination of documents, and I would hope that as we move toward our field hearings and so

forth we've discussed the possibility of a subsequent Washington hearing, and we would hope that you would again be available to join us.

COMMISSIONER BROOKE: Madam Chairman, could you ask Mr. Beck if he could look into his records and ascertain if there is a record of any uprisings, any possible atrocities, anything that occurred in those camps, because I think Mr. Beck testified that even though WRA had at one time jurisdiction over the Army, it never did relinquish control, and I think --

MR. BECK: Yes, the War Relocation Authority ran the camps although there was a local government within the camps. In a few notable instances there were outbreaks of violence, what you would call a civil disturbance. The War Relocation Authority then called in two battalions of military police, who put down the riot and kept control -- this was Tule Lake -- for about two months until the situation was quiet again, and then they restored the authority to the War Relocation Authority.

COMMISSIONER BROOKE: Any recorded instances that you might have or any claims made during that period of time should be recorded, I would think.

CHAIR BERNSTEIN: Since I would assume that you will be responsive to that kind of request.

MR. BECK: Yes. For claims made as a result of those things would have proceeded up through a Justice Department channel.

CHAIR BERNSTEIN: Right, and we understand, I think Senator Brooke is describing, rather, documents and records that exist as to the role of the War Department in these events.

MR. BECK: Yes, I can at least point you to individuals who would be in authority over those records right now, and those in my office I can make available as well.

CHAIR BERNSTEIN: Fine. Thank you very much.

MR. BECK: You're quite welcome.

CHAIR BERNSTEIN: Our next witness is Mr. David Trask from the Department of State -- Dr. Trask, excuse me. Dr. Trask will you give us your title at the Department, please.

STATEMENT OF DAVID TRASK

DR. TRASK: Madam Chairperson, members of the Commission, my name is David Trask, and I'm the Historian of the Department of State. As such I direct the activities of the Department's Office of the Historian. Here with me today is Dr. Neil Petersen, who is our advisor on research, and who had great deal to do with preparing our report.

I might say that it's not often that on one occasion the Department of State outranks both the Department of Justice and the Department of the Army.

CHAIR BERNSTEIN: We're glad for you.

DR. TRASK: It's a pleasant but short life event. I'm here to report on the initial findings of the

Department of State concerning its relation to the relocation of Americans of Japanese descent during the Second World War. Preliminary research, conducted by members of the Office of the Historian, is based on the retired files of the Department in the National Archives and published information, including books, articles and Congressional hearings.

The Department of State did not bear primary responsibility for the initiation of the relocation program, which came into being because of perceived military necessity. A division of the Department of the Interior administered the program.

Nonetheless, the Department of State had an important interest in the program because it was the agency responsible for insuring the good treatment of some 10,000 American civilians captured in the Philippines, Wake Island, Guam, China and Japan in the early stages of the war. The Department was also interested in obtaining the early release of the prisoners. The Japanese government knew of the relocation camps and objected to the treatment of their inmates. This circumstance posed the possibility of reprisals against Americans in Japanese hands. Then too, the moral and practical problems of relocation were as apparent to State Department officials as to other government personnel. During the course of the war most ranking Department officials had some contact with the issue -- Cordell Hull, Edward Stettinius, Sumner Welles,

Joseph Grew, Breckinridge Long, Dean Acheson.

The role of the State Department in the drafting of Executive Order 9066 appears to have been minimal. In October and November 1941, Curtis P. Munson, technically a State Department representative, prepared a report for President Roosevelt on the loyalty of Japanese Americans on the west coast and in Hawaii. This study, which held that the Japanese were totally reliable, was circulated to Secretary of State Hull and certain other cabinet members, but it was never discussed in the Department and was probably unknown to its officials.

The Department had little to do with early activity in connection with the Order. On February 13, 1942, Maxwell M. Hamilton, Chief of the Division of Far Eastern Affairs, informed Under Secretary of State Sumner Welles of the soundness of restricting the Japanese element of the population on the west coast and in Hawaii. He cited Walter Lippmann's Washington Post article of the previous day on a fifth column. No available evidence suggests that the State Department advanced this position or otherwise participated in the drafting of the Executive Order 9066.

The Department initiated action on behalf of Americans in Japanese custody from the onset of the war. Japanese diplomats were interned at the luxurious Homestead Hotel in hope of eliciting favorable reciprocal treatment of U.S. diplomats in Japan. By January 1942 State had

extracted assent from Japan for mutual adherence to the principle that the provisions of the Geneva Convention on Prisoners of War would be applied to civilians even though Japan had never ratified the instrument. The two nations negotiated an exchange of official personnel, and it occurred at Lorenco Marques, Mozambique, in July 1942.

Negotiations to exchange mainly non-official civilians proceeded with great difficulty. Japan requested the repatriation of a large number of specific individuals. Some didn't want to go. American intelligence and security organizations advised against the release of others. The State Department feared that if the United States was not more responsive Japan would not repatriate many influential Americans. There arose in this connection the question of forced repatriation. The State Department held that aliens could be deported against their will only as a last resort to free American citizens in Japan, and that American-born Japanese citizens retaining American nationality could in no case be sent to Japan unless they so desired.

COMMISSIONER GOLDBERG: May I interrupt you and ask you, the Japanese law recognized dual citizenship, Dr. Trask?

DR. TRASK: I do not know. We will check. I suspect --

COMMISSIONER GOLDBERG: Could you ask your legal advisor and let us know?

DR. TRASK: If I have no other source of information, I will ask the legal department.

A second exchange -- I'm talking now about a second exchange of non-official personnel, I'm not here speaking of prisoners of war -- a second exchange occurred in October 1943 despite the obstacles presented by the relocation policy. Spain, the representative of Japanese interests in the United States, faithfully transmitted Tokyo's embarrassing protests regarding the treatment of Japanese nationals in relocation camps to the Department of State. Within a few days of the establishment of collection centers for Japanese Americans in California, the Spanish Consul from San Francisco visited them. On a number of occasions in 1942 and 1943 representatives of the Spanish Embassy, accompanied by State Department officials of the Special War Problems Division, visited relocation camps in California and other western states. The nature of Spain's reports to Tokyo could not be known, and American officials put the best possible face on the results of the visits, but additional protests from Japan usually followed. It is an interesting historical sidelight that recently declassified "Magic" intercepts indicate the United States believed that an espionage ring operating out of the Spanish Embassy provided Japan with information during the war.

One point of contention about the evacuees centered on the issue of forced labor. Should the Japanese

inmates of the relocation camps be compelled to contribute to the war effort by working? No, said the Department of State. Although the United States consistently denied that the camp inmates were internees and thus subject to the Geneva Convention, State believed that any practice or regulation that fell short of the Geneva standards could provoke Japanese reprisals against its American civilian internees.

By the end of 1942 disillusionment and factual strife developed in the relocation camps. During hearings by a Senate subcommittee in January 1943, Joseph Grew, the former Ambassador to Japan who had been interned for six months, told a panel that was inclined toward sterner control, "we should make every effort not to alienate the many thousands of good, loyal Nisei American citizens of Japanese origin just because they were born of Japanese blood. I believe that the very vast majority are loyal American citizens who would fight for us. They have been reared in our democracy, they had no contact with Japan, they have their families here; their whole outlook is American." Grew, who later became Under Secretary of State, urged that the disloyal and the troublemakers be segregated from the pro-American majority.

Discontent erupted into violence at the Tule Lake camp in November 1943. Assistant Secretary of State Breckinridge Long expressed concern to Senate investigators that the situation threatened Americans held by Japan. Indeed,

Radio Tokyo had already broadcast ominous veiled threats regarding the 10,000 American civilians in its custody. Long had reservations regarding the transfer of disloyal Japanese Americans to U.S. Army control; he feared the impact on Japan's American prisoners. He also revealed that Japan had demanded clarification of U.S. relocation policy prior to the continuation of exchange negotiations. Shortly thereafter Japan totally lost interest in the exchange negotiations; many Americans remained interned for the duration of the war.

By 1944 it was obvious to almost all in official Washington that any national security justification for the relocation program had ceased to exist. Secretary of State Hull wrote President Roosevelt to second the position of Interior Secretary Harold Ickes; the West Coast exclusion decree should be lifted and the relocation camps should be closed. On December 17, 1944, the mass exclusion orders were rescinded.

During the last few years of the war, Congress gave serious consideration to legislation providing for the postwar deportation of Japanese Americans on the grounds of disloyalty. On December 18, 1945, Acting Secretary Dean Acheson conveyed the views of the State Department to Representative Samuel Dickstein, Chairman of the House Committee on Immigration and Naturalization, concerning H.R. 1444, a bill aimed at the deportation of all Japanese nationals not closely related to persons

serving in the U.S. armed forces. Acheson described the bill as an injustice to long-time residents of established loyalty. "I cannot refrain," he said, "from expressing grave doubts in regard to the moral aspects of a proposal to eject from our community, solely on racial grounds, an element in our population which can rightfully claim an enviable record during the war ... I fear that the bill would violate long established and valuable principles which have guided the people of this country since the founding of the republic." H.R. 1444 was not reported out of committee.

To summarize, the responsibilities of the Department of State in connection with Americans in Japanese hands caused the agency to exercise a moderating influence upon the relocation policy. Officials such as Ambassador Grew spoke out on behalf of Japanese Americans when to do so represented an act of moral courage.

There is another side to the story. A memorandum from Assistant Secretary of State Breckinridge Long to Secretary Hull regarding possible deportation of so-called disloyal Japanese Americans reveals an obvious callousness regarding these people. Also, Bernard Gufler of the Special Division told a Senate Subcommittee that the Geneva Convention should not be applied to relocation centers because "we can get a little more out of them" otherwise. Concerning camp administration, he said: "maybe

they need a little more steel inside the glove."

The State Department's role in a related operation, the deportation of citizens of Japanese descent from their homelands in Latin America, is another aspect of the story. With State Department encouragement and assistance in selection of individuals, the government of Peru deported approximately 1,000 of its Japanese residents to relocation camps in the United States. The deportation programs in Latin America were conducted pursuant to commonly agreed measures for hemispheric defense concluded at the Rio Conference of 1942. It is clear, however, that the State Department actively sought the deportation and incarceration of individuals of Japanese ancestry from Latin America and later from liberated Europe in order to use them as bargaining chips in its struggle to secure the release of Americans held by Japan.

Years later, a Foreign Service officer involved in the Peruvian affair provided an evaluation that pertains to his particular experience and the larger question of State Department participation in the treatment of innocent individuals of Japanese ancestry during World War II:

"The forcible detention of Japanese from Peru, arising out of a wartime collaboration among the governments of Peru, the United States, and the American republics, was clearly a violation of human rights and was not justified by any plausible threat to the security of the western hemisphere. To try to understand it, one must put

oneself back into the atmosphere of the times. The war against Japan was a total war. After the surprise attack on Pearl Harbor, the enemy was deemed capable of any act, no matter how unreasonable or unlikely. The enthusiastic exploitation of prejudice, hatred, emotion, and covetousness became respectable and acceptable."

I may say, Madam Chairperson, that the Office of the Historian stands ready to respond to any and all requests that you may make for further information.

CHAIR BERNSTEIN: Thank you very much, and I think I've been somewhat remiss gentlemen, before we have the questioning. But both of these gentlemen are distinguished historians, and I don't think I said that initially; both are experts and have published in the field of military history. Forgive me gentlemen.

Now may we continue with the questioning.

COMMISSIONER BROOKE: You said that the State Department had a moderating influence. Is that after the decision was made and the executive order was issued?

DR. TRASK: Yes.

COMMISSIONER BROOKE: You did not have any participation; State did not participate in the deliberations which lead up to the executive order?

DR. TRASK: We have yet to discover that there is such participation and doubt it. The State Department's position initially of course partly reflected the hysteria of the times; it was only as time passed that the civil

liberties question became more apparent, and this was reflected in growing State Department concern on that level later on, especially by Assistant Secretary Acheson.

But during the war, the State Department's principal concern was its people in Japan. You can recall from relatively recent experience how concerned we get with civilian internees in countries that are not friendly toward us. Something of the same atmosphere existed in the Department of State; the Department's primary concern was the fear that relocation policy might, if reported to the Japanese directly or indirectly, and particularly through Spanish intermediaries, that if adverse reports went there, there might be comparable pressures on our people there. This is red skein that sticks out of the rug of this experience, during the immediate crises. Later on, however, it is clear that the obvious violations of civil liberties that were involved had to be addressed, and there was increasing recognition of this as the military emergency passed.

COMMISSIONER BROOKE: Can you document whether the relocation experience did impact adversely upon Americans in Japan?

DR. TRASK: This is a question that obviously has occurred to us, we're going to look further. Our records are not the place for information of this sort. Military intelligence records are an obvious possibility, including the "Magic Intercepts," and we intend to pursue that

question. The Department of the Army can be helpful.

COMMISSIONER BROOKE: It would be very helpful to the Commission if you could document that.

DR. TRASK: We will certainly work together on that.

COMMISSIONER BROOKE: State did, however, visit the various relocation camps. Did you find any evidence of forced labor in the camps?

DR. TRASK: I can recall none. Let me ask my colleague, Dr. Petersen.

DR. PETERSEN: Well, the State Department representatives accompanied the Spanish Embassy or Consul personnel to the camp.

CHAIR BERNSTEIN: Would you use the microphone, please?

DR. PETERSEN: And they appeared to get along pretty well with them, with the Spanish representatives, and invariably said that the Spanish people got a good impression of the camps but then in a month or two there would be a protest from Japan through the Spanish Embassy that was presented to the State Department, and much of the documentation of this nature had been published by the State Department in Foreign Relations of the United States diplomatic papers, the official foreign policy records of this country, and I think a compilation of this series will be of interest to the Commission; I will give you a full citation subsequently.

COMMISSIONER BROOKE: I just wonder if you made any independent visit or investigation of these camps; I was in the Army five years, and I know, when we know that the Commanding Generals are coming around or somebody from the State Department, everybody would be polished up, and then you get these little Japanese kids singing "God Bless America"; you can always arrange that any time you want to arrange that. You can stage scenarios, and I just wondered whether you did any independent investigation and actually found any evidence of forced labor. If you did, we would like to know about it.

DR. PETERSEN: I believe the retired State Department files at the National Archives contains documents that indicate some State Department's people thought that there were some legitimate grievances, that things were not what they should be in the camps. There were quite a number of incidents that elicited protests from Japan.

COMMISSIONER BROOKE: You didn't find anything drastic that would indicate that the advice to put more steel in the glove was ever carried through, that there was more steel put in the glove.

DR. TRASK: I mentioned that quotation; it's just that there was a range of opinion within the Department of State. There appears to be no evidence that that particular advice was accepted.

But the more general question of the administration

of the camps is an issue of great import; it's probably better reported on by examination of those WRA records. But we will certainly examine our records for any information that is related to this question.

The State Department official position was clear opposition to forced labor, which is of course banned by the Geneva Convention and for that reason unacceptable to international lawyers.

COMMISSIONER BROOKE: Thank you, sir.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: You said the role of the State Department in the drafting of Executive Order 9066 appears to have been minimal. Why was it minimal, the Department?

DR. TRASK: Clearly at the time, the assumption was that the jurisdiction lay within the military confines. Now with the benefit of hindsight, I think a definite argument might be made that perhaps the Department of State should have taken a very active interest in the matter. But the Department either did not know of it, or if aware of it, did not actively participate in the order. As a citizen, I regret that very much.

COMMISSIONER GROMOFF: Thank you.

COMMISSIONER GOLDBERG: Dr. Trask, did you find anything in your records which showed an Executive Order 9066 was discussed before the whole cabinet?

DR. TRASK: Apparently not. I can recall nothing, but let me ask Dr. Petersen.

DR. PETERSEN: We're interested in this question, and the other agency records are involved and we haven't had sufficient time to investigate that, but I believe it to be an important issue.

CHAIR BERNSTEIN: Any other questions?

COMMISSIONER MITCHELL: Yes.

I'm interested in that question too, and I'm wondering, your statement that the Munson report was not even considered by the Department indicates a rather cursory review of the whole problem, and I'm wondering whether you could give us any guidance, as to whether there should be some mandatory collaboration on the part of the Departments interested and anything as important, both nationally and internationally, as the question we're discussing today, prior to the handling of the War Department report of the 9066 to the President. It's something it seems to me that you have been thinking about in reviewing this thing, and I wonder whether we have the responsibility of making a recommendation.

DR. TRASK: I certainly wouldn't be so presumptious to suggest to you your recommendation, but I will say in my own opinion, matters of such grave import should be carefully considered on interagency basis by all concerned parties.

COMMISSIONER GOLDBERG: Haven't we provided

for that through the National Security Council?

DR. TRASK: Yes, there are many interagency arrangements that now exist; the question of whether they perform their functions effectively is another thing.

COMMISSIONER MITCHELL: And that's the question I'm asking, whether there ought to be a mandatory requirement of some kind and if some kind, what kind?

DR. TRASK: I suspect, though I'll check, that there is such a mandatory requirement right now. Whether it operates or not is again another question, but we will check.

CHAIR BERNSTEIN: That would be very much appreciated.

COMMISSIONER GOLDBERG: You're going to have to probe the mental recesses of the presidents of our country, who pretty much control the agenda of the National Security Council.

DR. TRASK: It is our impression that there was strong presidential support for the measures throughout, and that that played a very important role in the establishment of policy. But nevertheless, there is clear indication as time passed that more information became available as people had time to reconsider, the absence of a real military justification, clear and present evidence of civil liberties violations resulted in shifts of attitudes, and if I were writing a history of this proceeding, I would probably say that this is the latest manifestation of a concern that originated before the

end of World War II.

COMMISSIONER MITCHELL: Just one more question. What is your belief as to the Munson Report. Was it not circulated and not given consideration because of the propaganda situation in the country, the feeling against the Japanese?

DR. TRASK: We'll try and track this. You have to of course -- we all remember the desperate circumstances of the time; and the agenda of the departments, they were full. Prime Minister Churchill had arrived, and he alone took up 48 hours of the Department's time per day, and various other issues.

It is clear that the Department of State gave a very low priority to this concern, given others. Anyone who was working at the Department of State knows that a very high percentage of documents used there, however important, do not necessarily receive sufficient consideration, particularly in time of crises.

And I think that explains the reason why. It does not, however, excuse public servants, who clearly erred in this.

COMMISSIONER BROOKE: At this time, in 1942, Dr. Trask, did you have a human rights section or civil rights section in the Department?

DR. TRASK: No.

COMMISSIONER BROOKE: When did that come about, roughly?

DR. TRASK: In 1956.

COMMISSIONER BROOKE: And Human Rights came much later, didn't it?

DR. TRASK: Yes. Most of the Department's institutionalized human rights activities date from the time of the creation of the Commission of Human Rights of the United Nations.

COMMISSIONER GOLDBERG: And we don't know whether they have the human rights section or not?

You don't have to reply to that.

DR. TRASK: I'll say we've been looking for it.

CHAIR BERNSTEIN: Dr. Trask or Dr. Beck, was there any evidence of a presidential visit to these relocation centers?

DR. TRASK: No evidence known to us.

MR. BECK: Not to my knowledge, no.

CHAIR BERNSTEIN: I just thought perhaps a newspaper account may have had visits --

MR. BECK: I believe Eleanor Roosevelt did visit.

CHAIR BERNSTEIN: That was my recollection, and I wondered if that was in either of the documentation at State or the Army.

COMMISSIONER GOLDBERG: Did she make a report?

CHAIR BERNSTEIN: I don't know; it's just an impression, and I don't remember where I read it, but Mrs. Roosevelt had indeed visited one of the centers, and I wondered whether a report was made and whether it appeared

in the documentation.

COMMISSIONER BROOKE: The Secretary of War or the Attorney General, did they visit these camps?

DR. TRASK: I may say, Madam Chairperson, that the records at the Hyde Park Library might well be relevant --

CHAIR BERNSTEIN: That's a good point.

DR. TRASK: -- for any further research you might undertake.

CHAIR BERNSTEIN: One more question. How do I get you, Dr. Trask, and you, Mr. Beck, detailed over to the Commission staff?

DR. TRASK: Send letters.

CHAIR BERNSTEIN: All right, fine, I will do that.

MR. BECK: I can't promise they will receive --

CHAIR BERNSTEIN: Since all I have to do is prepare a letter, I will do so forthwith; it's obvious that a good deal of information resides both in the documents and clearly in your heads and in your statements.

Did you want to ask another question?

COMMISSIONER MARUTANI: Dr. Trask, I believe the defense of Canada regulations were passed up in our northern neighbor just about a month before 9066, and more specifically on January 17, 1942, and in my review of those defense regulations up in Canada, they bear a striking resemblance to what ultimately was to occur here in the United States.

Was there any interplay between our government

and the government of Canada, in either direction, relating to a defense of Canada regulation, and 9066 and what followed thereafter?

DR. TRASK: We know of none at this stage, but it's a possibility. Of course the situations were perceived similarly, so the action might result in similar perceptions in the two countries, but let me ask Dr. Petersen if he has any additional information.

DR. PETERSEN: I believe in 1943 there was contact with the Canadians at a high level regarding our prospective programs, but I don't have it clearly in mind. I can look into it.

COMMISSIONER GOLDBERG: May I ask this question? I gather from the statement by historians that part of the records are kept at the National Archives, is that correct?

DR. TRASK: Yes.

COMMISSIONER GOLDBERG: Is there any problem in going to the Archives? Has the Archives cataloged it so you have ready access to the documents that pertain to your subjects of inquiry, and I assume that's so of Justice and the War Department, is that correct?

DR. TRASK: The Department's records for this period, all of our records, have been retired to the Archives, but I'm not sure about other agencies.

COMMISSIONER GOLDBERG: Would you know?

MR. BECK: The War Department's records are open; everything, 30 years of age or more, are now open

with the exception of certain intelligence files.

COMMISSIONER GOLDBERG: They are highly classified?

MR. BECK: Yes, sir.

COMMISSIONER GOLDBERG: But generally you could go to the Archives and the librarian there has them cataloged, and those you don't have there in the Department you have ready access to, is that correct?

MR. BECK: Almost all of the record material is now under Archives control, this is by statute, and the Departments in each case have surrendered ownership of them, they are now owned by the National Archives and Records Services.

DR. TRASK: Some of our records are published in the Foreign Relations series, and there are guides there into additional collections.

COMMISSIONER GOLDBERG: Just as a matter of curiosity, as an old State Department hand, what is the date of our published reports. How current are you?

DR. TRASK: We are now publishing volumes in the early 1950s. It is our hope and our goal to reach a 20 year line.

COMMISSIONER BROOKE: Madam Chairman, can we make it official that you ask the Departments of State, Justice and Defense --

CHAIR BERNSTEIN: You certainly may.

And I assume that is a unanimous vote.

You obviously have all achieved a great success

here with us, perhaps more than you contemplated.

If there are no further questions, thank you again, and including you too, Dr. Petersen, we certainly did not wish to overlook you, because I know you participated in the preparation of an excellent report, and we look forward to working with you all in the future. Thank you very much.

Our next witness is Gordon Hirabayashi.

Mr. Hirabayashi has a doctorate in sociology from the University of Washington and is presently a visiting professor in Asian American studies at the University of Washington. Mr. Hirabayashi was a resident in Seattle when military authorities declared curfew for Japanese Americans living in "military areas." He -- I don't whether I should say -- is alleged to have violated the curfew -- you correct me Mr. Hirabayashi, you violated the curfew and challenged the civilian exclusion order, which was reviewed up to the level of the Supreme Court, a famous case called Hirabayashi v. United States.

Welcome, Mr. Hirabayashi.

STATEMENT OF GORDON HIRABAYASHI

MR. HIRABAYASHI: Thank you Madam Chairman and commissioners.

In 1942 I did oppose the wartime curfew and exclusion orders as they applied to Americans of Japanese ancestry. I did this sort of crudely, I simply ignored the orders, but more positively stated, what I was trying

to do was to behave like other Americans, Americans of other ancestry, and since all of my student colleagues were behaving independent of curfew and exclusion orders, I was doing the same.

Today I appear before you continuing to oppose those wartime curfew and exclusion orders. Today I appear before you to seek correction of those wartime injustices, and to put teeth into the corrections to seek compensation for the victims.

Today I appear before you to request that you recommend to Congress to enact legislation in order to reopen my case, and those related ones of Yasui and Korematsu. I make this request so that our highest court does not continue to endorse racial discrimination as the law of the land.

Commissioners, I have submitted a short written statement in support of my contentions, for my brief oral statement I will describe some aspects leading to my court case, and what I consider from a layman's viewpoint, some fundamental loopholes that remain.

I will conclude with a brief comment regarding racism, and the dangers of shortsightedness if we are to consider those wartime tragedies involving the Japanese Americans and the Aleuts, as isolated unique bizarre events.

In 1945, Eugene Rostow wrote "Our wartime treatment of Japanese aliens and citizens of Japanese descent on the West Coast has been hasty, unnecessary and

mistaken. The course of action which we undertook was in no way required or justified by the circumstances of the war. It was calculated to produce both individual injustice and deep-rooted social maladjustments of a cumulative and sinister kind. All in all, the internment of the West Coast Japanese is the worst blow our liberties have sustained in many years."

And then 31 years after that, on the 34th anniversary of the issuance of Executive Order 9066 during the Bicentennial Year, President Ford rescinded it with a statement that said in part: "We now know what we should have known then, not only was that evacuation wrong, but Japanese Americans were and are loyal Americans."

In the Supreme Court decisions, Hirabayashi v. U.S. in 1943, in June of '43, Korematsu v. U.S. and Ex parte Endo, December 1944, the Court, in essence left, what appears to me a prominent loophole, in their logic, they seemed to say, first major premise:

1) When there is a compelling social circumstance, individual rights must give way;

2) Exclusion from specified areas and detention in confined zones may be necessary for military security;

3) and the conclusion; therefore, all persons of Japanese ancestry must be uprooted and detained in camps.

I think -- and it has been alluded to already --

that where a group, including a government, is confronted with an emergency situation, individuals must give way, and all through history they have done that, and they must take certain kinds of emergency steps which may confine individual freedom.

In this instance, if we had those two premises, that there is an emergency situation and that therefore the government must take extreme action, and therefore, over a certain specified area, all citizens must move, this is hard on the citizens, but it is acceptable. What I can't understand was this, and why I refused to go along with it, was after stating those emergency situations, in a situation where we did not even have martial law, they go and pick a particular small population, purely on the basis of ancestry, and make them subject to a statute or an order purportedly for espionage and sabotage protection.

In spite of the fact, well I should say, if we contend that certain kinds of war hysteria had engulfed some of the operating people involved, and we've heard some of the departments, I feel that this fever went all the way up to the Supreme Court, because in their deliberations, in my case, 8 to nothing; in the Korematsu case, 6 to 3.

I'd like to point out a few things that happened in the course of my case on the way to the Supreme Court, and at the Supreme Court.

In the District Court hearings, we had an all-

day trial; they had even gone to the trouble, the government had even gone to the trouble of sending a marshal down to Tule Lake to subpoena my parents, and since the Western area was an excluded zone, they were confined in jail, my father with me; and my mother in the city tank.

One of the good consequences of that event, which struck me as a peculiar way to treat your own witness, and they did this in spite of the fact that my defense committee, all Caucasians living in Seattle, offered to give their homes and even offered to be deputized if they wanted it official, but this was turned down. The one good thing that came out of that event was the relaxation of concern of my parents over my physical well-being, they had never seen a jail before; they had read stories like Count of Monte Cristo and so on, and didn't know whether I was being hung by my thumbs, and undergoing various kinds of physical hardships.

Well, they discovered that I was confined, it was cock-roachey, food wasn't very good, but by the time they saw me I had been there so long I was the mayor of my tank, and in charge of everybody that they threw in there.

So they left on that aspect at peace over my physical well-being. A lot has been said about the anxieties of the period, and I would like to put the picture from the other side, which you will hear subsequently, when you get witness' statements, particularly in the West Coast, but at the time this thing was happening,

my parents were very concerned, they were sympathetic with the principles I was expressing to them, but they wanted me still to go with them because we didn't know where they were going, they didn't know how long, they didn't know whether they'd ever see me again, and things of this nature.

So anxiety was on all fronts. At the trial, I was charged on two counts, curfew violations and refusal to register for going to camp.

In the instruction of the judge to the jury, after discussing all sorts of constitutional issues and so on, the judge said to the jury, you are not to review whether this man is dangerous or espionage or sabotage; all you are to determine is whether he is of Japanese ancestry. And if he is, whether he has complied with the regulations as they were specified. So it didn't take very long for a decision to be made in the lower court.

After sentencing, the judge took into consideration that I had already been in jail five months waiting for the District Court trial, and the maximum for each count was 12 months; he said I'm going to take those things into consideration and I'll sentence you to 30 days for curfew violation, 30 days for exclusion order violation, to be served consecutively, that is a total of 60 days; using jail house advice, when he asked if the prisoner had anything to say, I asked my attorney if he could increase the penalty just a little bit so it would

total 90 days for each count to be served concurrently. The judge, the district attorney, my attorney, and of course myself, we didn't see anything wrong with it at the time so that was accepted.

When this thing went to the Supreme Court, I'll refer to this, it becomes a very significant change which was inadvertently made, sort of innocently made.

Before I get to that point, we appealed this sentence immediately, and it went to the Circuit Court of Appeals. This was in October. In February the Circuit Court was deliberating this matter, and they framed a few basic questions for interpretation guidance and sent it to the Supreme Court. The Supreme Court looked at those questions and said these are basic questions, if we're going to give comments on those we might as well have the rest of the file, so they said send the case up, and so it went up the Supreme Court, and was put on the calendar for a May hearing; and our committee that was handling the defense strategies heard of this in March and we had to retain an experienced Supreme Court lawyer from Philadelphia, who, considering the fact that there was only six weeks to prepare for himself and for the defense strategy, asked for a postponement. The postponement was refused for some reason, and the trial went on.

I felt, looking at it as an involved person, that the postponement was intended -- or the postponement was not given because we were right at the approaching the

turning point of the war and I think military leaders knew that this was coming, and in fact the Battle of Midway, generally considered the turning point of the war, occurred after the hearing and before the decision was handed down in June.

During that period anxieties are higher, government witnesses from the State Department, War Department, Military Officials and so on, when they gave statements like military necessity, it carried more wallop; and they were statements that we had no way to counteract at that time.

CHAIR BERNSTEIN: Mr. Hirabayashi, I don't mean to interrupt, but if I may, Justice Goldberg must leave shortly, and if I may interrupt -- and we're also running very late, and ask whether he may interject here and then we will continue.

COMMISSIONER GOLDBERG: You made a statement that both the Supreme Court overruled this decision. But it may be of some comfort to you to know that the Supreme Court has in effect overruled at least part of your decision directly. Page 1385 of your decision says that appellant insists and exercises the power inappropriate and unconstitutional because it discriminates against citizens of Japanese ancestry in violation of the Fifth Amendment.

The Fifth Amendment contains no equal protection clause, and restrains only such discriminatory legislation by Congress as amounts to a denial of due process.

Well, that is no longer the law. Right after the court decided Brown v. Board of Education, separate but equal doctrine appeared in the District of Columbia, and the same argument was made relying upon your case, saying the Fifth Amendment contains no equal protection clause. The court then held, in a case called Shelly v. Kramer, Chief Justice Warren wrote the opinion, that the statements in your case, Hirabayashi is wrong law; that the due process clause in the Fifth Amendment, even though unlike the 14th, it does not contain express language on an equal protection clause; the Fifth Amendment due process provision incorporates the concepts of equal protection. So you have the related -- I don't know how much happiness it gives you; you have the satisfaction of knowing that the statement that they made, very important to your case, the Japanese were singled out.

The statement that was made in Hirabayashi -- is that the way you pronounce your name -- the statements made in your case no longer is the law; it is now expressly recognized that the Fifth Amendment does contain an equal protection implication.

MR. HIRABAYASHI: So what you are saying in effect is that in part some of that has been overruled.

COMMISSIONER GOLDBERG: That is correct.

CHAIR BERNSTEIN: Thank you.

COMMISSIONER GOLDBERG: Excuse me, I have to catch the shuttle.

CHAIR BERNSTEIN: And I'm sorry that we're running so late. I would like to try to expedite things here so that we make sure everybody who needs to be heard is heard. If the Commission would hold its questions for a few minutes, I see, since we really are addressing these Supreme Court cases that Minoru Yasui is in back of you and I would like to ask him to come forward for a few minutes; he is going to comment very briefly, and while he does, may I ask our last witness for today to come forward so that we can get ready for that and then we will ask all our questions at once if that is agreeable with the Commission.

Our last witness is Major Orville Shirey, U.S. Army retired, who will be delivering a statement for General Mark Clark.

Mr. Yasui.

STATEMENT OF MINORU YASUI

MR. YASUI: Thank you Madam Chairman, members of the Commission. I will be speaking here as an individual; I would go back to the year of 1942 and indicate then I was a red-blooded American and I still am, except perhaps my blood is a little bit diluted with Geritol and dozens of heart pills; but aside from that, going back to 1942, we were confronted with the specter of our government trying to enforce a harsh and unreal kind of order against American citizens on the basis of race and race alone.

On the 21st day of March 1942, the Congress of the United States made it a penalty to knowingly and willfully violate an order of any military commander.

On the 24th of March 1942, the Military Commander, John L. DeWitt, issued this kind of an order and on the 28th day of March I deliberately violated such order. I have consulted with constitutional authorities for the city of Portland, I had consulted with the FBI. I went to law school with some of these guys and we were discussing this kind of a thing.

But we knew that any American citizen ought to have equal justice before the law. I was brought up as an American, I believed in the American Constitution, the Bill of Rights, I believed that every American, at war or at peace, should be granted those constitutional rights which are a birth right of every American citizen.

Admittedly mine is but a minor adjunct of the Hirabayashi case. I guess I have one advantage over Gordon Hirabayashi inasmuch as I had the luxury of a private suite in the county jail, he ruled the tank as the captain of the particular tank, and I had solitary confinement for nine months.

But I think it is incumbent upon this Commission to again truly examine the constitutional principles here involved, not because it affected 120,000 Japanese Americans, but affected all Americans.

I'm delighted to hear that Justice Goldberg indicates

that some of the precedents established in the Hirabayashi case has been overruled, but there is still yet the Korematsu case, the Ex parte Endo case, and the whole principle that if we plead military necessities that the judiciary will not examine into the bona fides of that decision. We have seen this trend ever since the days since 1867, and we have seen the Circuit Court in this very district saying we will not examine into the bona fides of an executive order if you plead military necessities.

I think that the human rights of American people are far more sacrosanct, are far more sacred than the plea of military necessity or military security. Therefore, I certainly commend you to a deep conscientious dedicated study of these issues, remembering always that this is a great contribution that you can make to the United States of America.

CHAIR BERNSTEIN: Thank you Mr. Yasui. That is indeed a charge to all of us and we will, I'm sure, honor it.

May I ask Major Shirey to please come forward and present his statement for General Clark, and then we will take in rotations questions to any or all of the witnesses.

STATEMENT OF GENERAL MARK CLARK
BY ORVILLE SHIREY

MR. SHIREY: Madam Chairwoman and Members of the Commission, my name is Orville Shirey. The reason, I suspect, that I am presenting this statement is that I

was a member of the 442nd Combat Team, and was its historian and the author of its military history.

The following is a statement by General Mark Clark, United States Army, retired.

Madam Chairwoman and Members of the Commission on Wartime Relocation and Internment of Civilians:

While age and health reasons prevent my testifying in person before this Committee, I cannot allow this opportunity again to pay tribute to the Japanese Americans who served in World War II to pass without some words of recognition. Accordingly, I am submitting this brief statement for the record.

Although 38 years is quite a long time ago, and I do not have documents available to me, my memories of their gallantry under extraordinary circumstances, especially in Italy, remain among my most cherished recollections.

To begin with, though, I would be remiss if I failed to mention and do honor to the many thousands of Japanese Americans who served in the Pacific in World War II, mostly as language and intelligence specialists. They were not just desk soldiers and many served in the front lines, some even behind enemy lines. Because they happened to look like the Japanese enemy, theirs must have been an especially difficult and dangerous task. But their services were so effective that General Willoughby, General MacArthur's Chief of Intelligence,

estimated that the Nisei shortened the Pacific War by two years and saved possibly millions of American casualties and billions of dollars.

However, the Japanese American troops whom I knew best and who served under my command in the Fifth Army during World War II were those of the 442nd Regimental Combat Team, and it is of them that I shall comment principally.

The Nisei advance guard, as it were, was the 100th Infantry Battalion, organized in Hawaii of former Japanese American National Guardsmen. It entered combat in Italy in September 1943 and distinguished itself from the beginning.

Later, while retaining its proud name, the 100th became the First Battalion of the 442nd Infantry Regiment, with members of the original battalion becoming the replacement unit for the newly activated 442nd.

As some may recall, following the outbreak of war, the Selective Service System decided not to induct qualified Japanese Americans, especially since most of those on the continental mainland were evacuated from their homes and associations on the west coast of the United States because of -- as was determined later -- unfounded suspicion that some of them might be disloyal.

Thousands of Japanese Americans both in the then territory of Hawaii and the mainland resented this attitude and volunteered to fight, and, if necessary, to die for their country.

In response to this mass appeal, on January 22, 1943, the Department of War authorized the formation of an all-volunteer Japanese American Combat Team, to be activated at Camp Shelby, Mississippi, on February 1, which should be composed of the 442nd Infantry Regiment, the 522nd Field Artillery Battalion, the 232nd Combat Engineer Company, and the 206th Army Ground Forces Band.

President Franklin D. Roosevelt approved this action, declaring, "... no loyal citizen of the United States should be denied the democratic right to exercise the responsibilities of his citizenship, regardless of his ancestry. The principle on which this country was founded and by which it has always been governed is that Americanism is a matter of the mind and the heart; Americanism is not and never was, a matter of race or ancestry. A good American is one who is loyal to this country and to our creed of liberty and democracy ..."

In any event, while many thousands from Hawaii volunteered, so did thousands from the ten wilderness War Relocation Centers to which they had been evacuated in the spring of 1942 because of suspected disloyalty. These young volunteers decided to prove in battle that they were loyal Americans, and to earn for themselves and their posterity their place in America for all time to come. Over the objections of many who wished to use them in non-combatant services and to mix them into other units, they succeeded in obtaining their desire -- a Japanese

American combat regiment.

As their team motto, they adopted a slang phrase: "Go For Broke," a gambler's term "to shoot the works," "to go all out to win," now an often-used expression of Americana. And "Go For Broke" they did, becoming in the words of Chief of Staff Marshall, "the most decorated unit in American military history for its size and length of service."

On July 15, 1946, President Harry Truman reviewed elements of the 442nd, then known as the "Christmas Tree Regiment" because of its many decorations and awards. In a little more than two years, this unit had participated in seven major campaigns in Italy and France, received seven Presidential Distinguished Unit Citations, suffered 9,486 casualties, and was awarded 18,143 individual decorations, according to the Final Report on Special Groups of the Selective Service System. Its original strength was about 3,500 men.

In affixing the seventh Presidential Distinguished Unit ribbon to the colors of the 442nd on the White House Mall, President Truman said, "I think Americanism is not a matter of race or creed, but of the heart. You fought not only the enemy, but prejudice -- and you won."

I was honored to have the 442nd Regimental Combat Team under my command in Italy until September 1944 when, to my regret, I lost them to my friend General Eisenhower for the landing in Southern France. In that

theatre, as they had done in the Mediterranean, they performed superbly, climaxed by their rescue in the Vosges Mountains of Northeastern France of the so-called Lost Third Battalion of the 141st Regiment of the 36th Texas Division. In this single action, which has been recognized as one of the "greatest" land battles in American history, more than 75 percent of these infantrymen committed to the rescue effort were either killed or wounded.

To my great satisfaction, and upon my personal appeal to General Eisenhower, the 442nd Infantry was returned to me early in 1945 and performed some of their most distinguished service in the foothills of the Apuan Alps, thereby contributing much to victory in that sector of the European War.

Many veterans of the 442nd, and many other Japanese Americans also served with equal distinction under my United Nations Command in the Korean War, as they subsequently did in Viet Nam under other commanders.

The heroic exploits of the Japanese American soldier, especially in World War II, should be an inspiration to all of what courage, loyalty, honesty, and devotion to America and its democratic ideals can achieve -- for Japanese Americans have triumphed over bigotry and prejudice, eliminated discriminatory legislation and practices, and secured new opportunities and dignity for themselves and their children.

I doubt that all this could have ever been accomplished

in a few short years without the spectacular battle performance of Nisei GIs in the service of our country. By its very nature, the invaluable service of Japanese Americans in intelligence activities in the Pacific War could not have become well-known until after the war's end and much of it is still classified information.

On the other hand, the well-publicized bravery, dedication, and brilliant achievements of the 442nd Regimental Combat Team aroused the admiration of the American public at the time and brought home the fact that Japanese Americans too were loyal citizens and could and would fight for our country at least as well as any others. It was the spearhead of the effort to demonstrate beyond all doubt that those of Japanese origin in this nation had earned their right to be respected as Americans by their fellow citizens. It is not too much to say that within the space of a few months this small military unit convinced most Americans of their individual merit as citizens.

When it is recalled that many of these Japanese American volunteers for military service had fathers and mothers, and brothers and sisters in these so-called detention camps, and when it is emphasized that the FBI, Navy Intelligence and Army Intelligence today admit that there was not a single case of espionage or sabotage against the United States by any person of Japanese ancestry resident in this country before, during and after December 7, 1941, I hope and trust that this

Commission will find that a grave injustice was done to a very patriotic sector of our population and that the record of these glorious deeds will be remembered by the American people.

May I conclude this statement by thanking the Commission for inviting my comments concerning Japanese American troops in World War II and by repeating the words of our then Commander-in-Chief, "Americanism is a matter of the mind and the heart; Americanism is not, and never was, a matter of race or ancestry."

Dated July 8th at The Citadel, Charleston, South Carolina.

CHAIR BERNSTEIN: Thank you very much, Major, and forgive me for mispronouncing your name. There must be something wrong with a person who can say Hirabayashi and cannot say Shirey.

May we please, Commissioners, take our usual rotation of questioning, and if you would like to address a question to a particular person at the table, please do so.

Judge Marutani?

COMMISSIONER MARUTANI: I pass for the moment.

CHAIR BERNSTEIN: Senator Brooke.

COMMISSIONER BROOKE: No.

CHAIR BERNSTEIN: Father?

COMMISSIONER GROMOFF: Dr. Hirabayashi, I would like to commend you on your statement, and I'm wondering

whether you could assist the Commission by writing out your concept of what should be said in a statement which, as you say, is an unequivocal statement that an injustice was done. You have obviously -- I don't need to say this -- given years of consideration to this question, and I think the Commission would like to know how you put that sentiment into words.

DR. HIRABAYASHI: I'd be glad to elaborate further on that in a written statement, that I would just add now that the chief basis on my non-hesitation in making that conclusion is the use of general premises for certain kinds of conditions, and then skipping a lot of intervening, necessary steps, and then reapplying it to certain groups on the basis of ancestry, without any accusation; that's the main part, and I could develop that aspect further.

COMMISSIONER MITCHELL: I'd like to ask one question for personal information. Justice Douglas in his book, The Court Years, said that he didn't write a dissenting opinion because other justices said the constitutional question had not been raised. It's hard for me to understand why the constitutional question would not be raised in your case.

DR. HIRABAYASHI: I can't understand that either, and further, he went to great lengths to rationalize that during the urgency of the war period it is not easy to separate loyal from disloyal, and therefore they have

to move everybody. That's in spite of this gap that I mentioned a while ago.

If we used his same logic, we would have to lock up all of the Caucasians, because Japan had spies in the United States, just as the U.S. had spies in Japan, and though in propaganda we were suspected as spies, but we wouldn't make good spies, we're so visible and we didn't have access to important sources, so obviously, the most effective spies were white. And since it was not easy to distinguish between them, his logic would mean that we should lock all the whites up too.

COMMISSIONER MITCHELL: Thank you, you've answered some of my quandary.

Major Shirey, could I ask further -- General Clark was quite active in the early days of the evacuation question on the west coast.

Do you know, or could you ask him whether he did write any memos in regard to those days? That might be useful to the committee. I recognize that he can't do the research work but he might have --

MR. SHIREY: I will certainly do that, I will put the question and ask him if he can reply to it.

COMMISSIONER MITCHELL: Thank you.

CHAIR BERNSTEIN: Are there further questions?

If not, I thank all of you. We will look forward to your further participation in these deliberations.

That concludes the testimony which the Commission

will hear today. Because of the late hour I ask Mike Masaoka, if he would -- and he has graciously agreed to being rescheduled for Thursday, so Mike, we very much appreciate it; I know it's been a long day and I want to give our full attention to you.

Before leaving, however, I'd like to make one further statement before announcing reconvening on Thursday. And that is that as to Colonel Bendetsen, both he and Mr. McCloy were invited to testify today. Mr. McCloy was out of the country and Mr. Bendetsen out of the city.

The Commission is of the view that the personal statements of both of these are needed for its inquiry. We will pursue those personal appearances for a subsequent hearing.

With that the Commission stands adjourned until Thursday morning.

COMMISSIONER MITCHELL: Excuse me, but by personal appearance, you mean personal appearance here?

CHAIR BERNSTEIN: Before this body.

COMMISSIONER MITCHELL: Not personal statements?

CHAIR BERNSTEIN: No, personal appearance before the Commission.

(Whereupon, at 5:10 p.m., the hearing was recessed, to reconvene at 9:00 a.m., on Thursday, July 16, 1981.)

Statement of Congressman Robert J. Lagomarsino

408-253 (247)

ROBERT J. LAGOMARSINO
19TH DISTRICT, CALIFORNIA

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Congress of the United States
House of Representatives
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COMMITTEE ON
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RANKING MINORITY MEMBER
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AFFAIRS
SUBCOMMITTEES:
PACIFIC AFFAIRS
RANKING MINORITY MEMBER
NATIONAL PARKS AND INSULAR AFFAIRS
OVERSIGHT AND SPECIAL
INVESTIGATIONS

July 13, 1981

Statement for Commission on Wartime Relocation and Internment of Civilians

Dear Chairman:

The Commission on Wartime Relocation and Internment of Civilians, charged with reviewing the facts and circumstances involving the relocation of approximately 120,000 civilian citizens and permanent resident aliens to internment camps during World War II under Executive Order 9066, is long overdue. I feel strongly that the injustices suffered by the Japanese Americans and permanent resident aliens of Japanese ancestry and the Aleut-American citizens must be fully examined. There are many questions from this unfortunate episode to answer and explain to the many people affected. America must recognize its mistakes so that we can avoid similar actions in the future. This examination is the very least we could do considering our actions. I support the Commission and strongly urge it to examine this problem thoroughly.

Sincerely,

Robert J. Lagomarsino

ROBERT J. LAGOMARSINO
Member of Congress

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408-253 (248)

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COMMISSION ON WARTIME RELOCATION

AND

INTERNMENT OF CIVILIANS

Thursday, July 16, 1981

Senate Caucus Room
Russell Building
Washington, D.C.

Hearing reconvened at 9:00 a.m.

Before:

JOAN Z. BERNSTEIN, Esq., CHAIR

CONGRESSMAN DANIEL E. LUNGREN, VICE CHAIR

HON. EDWARD W. BROOKE

DR. ARTHUR S. FLEMMING

HON. ARTHUR J. GOLDBERG

FATHER ISHMAEL V. GROMOFF

HON. WILLIAM M. MARUTANI

HON. HUGH B. MITCHELL

5/5 ↑

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P R O C E E D I N G S

CHAIR BERNSTEIN: Good morning, ladies and gentlemen, we are right on time this morning, I'm happy to say, and have three distinguished members of the Congress with us. They are all together at the witness table.

In the interest of time, and without a very formal introduction, we will commence. Senator Jackson has just come in. As you all know he is the senior Senator from Washington on the Armed Services, Energy and Natural Resources Committee, the Governmental Affairs, and Select Committee on Intelligence as well. He has been involved in this issue for a long time.

Senator Jackson.

STATEMENT OF SENATOR HENRY M. JACKSON

SENATOR JACKSON: Thank you, Madam Chairman, and Members of the Commission, I'm delighted to be here, and to be here with my colleagues from the House. I would also like to point out that I'm delighted that Senator Hugh Mitchell is serving on this Commission. We served together in the Congress and I know of his deep concern for the problem that we face, and I would like to commend you, Madam Chairman, and the other members of the Commission for giving of your time and your efforts to come up with recommendations as we requested by the action of the Congress in addressing this problem, trying to find some sensible solution. As you know, during the last session

of Congress, my colleagues and I worked together to develop the legislation that established the Commission on Wartime Relocation and Internment of Civilians. To us, looking back, it is almost incredible that this episode in our history has never been subject to the kind of view that it is now receiving; involving as it did wrongs committed against thousands of loyal Japanese American citizens.

The evacuation and internment episode was a tragic failure of our system during that wartime period. It was indeed the result of wartime hysteria, manifested throughout the highest levels of this nation's government.

I thought the statements made at the outset of the hearing by Justice Abe Fortas and by James Rowe pretty well described the state of mind that existed at the time, and that it was fundamentally a wartime situation involving unusual hysteria and insecurity of threat that was felt to the nation. And I think it came at a time when morale in America was -- that point of the war was at an all-time low ebb, and the result, as we look back, is rather sad.

So now is the time to conduct an adequate investigation of the internment and relocation episode. I believe that this Commission's inquiry will enable us to put this regrettable chapter in American history behind us once and for all.

There are many questions that remain unanswered about the measures taken to force the relocation of the Japanese American citizens and the Aleuts during World War II. The hearings being conducted by this Commission throughout the year will provide the proper public forum for a thorough and historically accurate investigation and discussion of these questions. The answers are of paramount importance to those who still bear the scars of personal experience in the Relocation Program during World War II.

Finally, I think the Commission should make an honest appraisal of the causes and the consequences of the evacuation and internment of the U.S. citizens and residents that occurred during that period. We need to know why and under what circumstances we could have interned 120,000 people based solely on their ethnic backgrounds.

Finally, it seems to me two fundamental issues that need to be addressed. One, should there be compensation? I question seriously whether you can provide for a monetary settlement of a problem that goes beyond that kind of a solution. I think (1) there needs to be an acknowledgement on the part of our government that this was a mistake that was wrong. And the second part is the toughest part of all. Could you draft a code of conduct and would it be useful for a government to follow in the event of another conflict that would have some meaning?

My own judgment, based on history, is that the problem of preserving the rights, liberties of people depend basically on the kind of society that exists at the time the event occurs. A statutory, even a constitutional guarantee in writing is no assurance that those freedoms will be preserved.

If you read Hitler's constitution, it provided -- or he provided, more rights than are explicit in our own constitution. And the same was true of Stalin. The British do not have a constitution, and we know that everyone growing up in England, through the generations, has understood the rights of their citizens. So maybe some kind of declaration would be helpful and useful, but it won't have meaning unless the generation that lives with it will be willing to implement it and understand it and will do it.

Thank you.

CHAIR BERNSTEIN: Thank you, Senator.

I think Justice Goldberg has one question to ask.

COMMISSIONER GOLDBERG: Senator, thank you very much. The Chairperson, of course, thanks you too. I notice with particular interest, Senator, your statement about compensation; and I understand the motivation, which is very humane and reaches really fundamental questions. On the other hand, among Japanese Americans as I have read their claims, petitions, there is a strong feeling that what Congress did in adopting a measure, which

I have read, and which excluded many considerations normally applicable to damages, was very inadequate.

Now, Senator, you are the author, and without you it could not have been done, of the greatest acts of justice that was done to a minority group in this country, the Alaska Native Claims Act. Without you it could never have occurred. I remember testifying for you. And putting aside for a moment your own views that compensation is not practical nor does it meet the enormity of the constitutional and moral violation that occurred --

SENATOR JACKSON: You can't put a dollar sign on the damage.

COMMISSIONER GOLDBERG: That is correct -- never. And I agree with you on that. On the other hand, if we are to do justice to many thousands who really feel that they were not only not given the proper redress, but that who needs redress, from that vast experience that you have had as the architect of the Alaskan Native Claims Settlement, could you give some thought to how now it could be done? I don't ask for an answer now, but perhaps if you could do that, drawing on your experience in general and the Alaskan Native Claims Settlement. Madam Chair, I hope I could speak for the Commission on this; that's the problem we face, and we would be most appreciative of any counsel we can get from you.

SENATOR JACKSON: Well, I appreciate very much, Justice Goldberg, your thoughtful comments. I think in that

connection, if the Commission should make a recommendation in terms of some dollar compensation, it would be a tragedy if you came up with a figure that Congress would not appropriate, and then we're back to square one.

COMMISSIONER GOLDBERG: An exercise in futility.

SENATOR JACKSON: That's right. It is a judgmental question. There was some compensation, obviously totally inadequate after World War II, and I only raise this question because Senator Inouye and Senator Matsunaga in the course of our legislative efforts, seemed to move away from that sort of a remedy. I'm more concerned about the practical aspects of it.

The second point is a critical one. What can we do to really prevent this sort of thing happening again? I appreciate your suggestions.

CHAIR BERNSTEIN: Thank you very much, Senator Jackson. Both Congressman Danielson and Congressman Yates came back on Tuesday, and because of the number of people, graciously agreed to come again. We very much appreciated it. Your agreement to show your personal support for the Commission inquiry.

COMMISSIONER BROOKE: Excuse me, but if the Congressmen would yield and Senator Jackson would stay with us just a moment more. I think the record should be corrected to show that Senator Matsunaga did go in favor, on record in favor of compensation, if I recall his testimony before this Commission on Tuesday last; and I asked the Senator, if he would, to read that testimony.

I think the question and exchange between Senator Jackson and Justice Goldberg is a very important exchange because the Commission is at some time going to have to resolve this question, what if any compensation should be given; and though I don't think any of us have made any -- have drawn any conclusions as yet, certainly before all the testimony has been heard -- this whole question of legislating morality has always been raised. The Senator from Washington has been a forefront of civil rights fights for years and years in the United States Senate, and he certainly is aware that old argument has come up time and time again that you can't legislate morality.

But you can legislate, and you can create the situation whereby these wrongs would not occur again -- that's what we're interested in doing. And in addition to that, even prisoners who have been incarcerated for a long period of time, after they have been freed -- wrongfully incarcerated -- they have been given compensatory damages for the time that they served in prison wrongfully.

Here we're not even dealing with prisoners, we are dealing with American citizens who for no other reason than the fact they were Japanese, were incarcerated for long periods of time. So it seems to me that we ought not just rule out possible compensation, and we ought not to say to these Japanese Americans that it's going to be complex. It is going to be complex; it's going to be very difficult if we go that route, to decide what is adequate and fair compensation.

The third and final point I would like to make is this. I don't think it's left up to this Commission to consider whether or not the Congress can afford to pay the compensation that the Commission recommends. I think that's the congressional responsibility. Our responsibility is to determine, as I see it, whether there was a wrong, whether there should be compensation and what fair compensation should be. And then let Congress determine whether the Treasury can afford to pay it or cannot. I do think that ought to be on the record, and I didn't want the Senator to leave before we put that on the record.

COMMISSIONER GOLDBERG: Senator Brooke, I think that in fairness to Senator Jackson, he was referring to testimony by Senator Matsunaga when the House and the Senate were considering --

COMMISSIONER BROOKE: Yes, I understand that, but --

COMMISSIONER GOLDBERG: And now the Senator, as I heard him yesterday -- I agree with you entirely, and I think it is important to make your statement, as perhaps we consider this.

SENATOR JACKSON: Well, may I just say I appreciate the added comments of Senator Brooke, because that is the approach, of course, in which the Congress would have some flexibility here. My concern was if you came up with a total dollar amount, and then you get into

a wrangle in the House and Senate, then you would be back to a situation that would be, I think, most unfortunate.

COMMISSIONER GOLDBERG: Particularly these days when we're all penny pinchers and balancing the budget.

COMMISSIONER MITCHELL: Madam Chairman, may I ask this one question before Senator Jackson leaves?

CHAIR BERNSTEIN: Certainly.

COMMISSIONER MITCHELL: And the question is really to all three witnesses. On Tuesday the War Department representative for all practical purposes, said that the War Department representatives had really pushed through and written the regulations under which the evacuation was handled. I asked at that time whether there would be any way to legislate, making certain that all departments having an interest, all departments of the federal government having an interest, including anything of such importance of this. Someone suggested that the security boards did that today, but it obviously didn't do it; it wasn't done in 1942.

SENATOR JACKSON: Well, I gathered from Jim Rowe's comments that it was largely an Army decision, the President acting under the War Powers Act. You know I mean the War Powers Act, of course, as the Supreme Court later unanimously upheld the authority of the President to do almost anything in time of war, I mean that was the net effect, I believe.

But Jim Rowe, of course, would know more than anyone else about who was really responsible, and I gather that it was the strong recommendation of General DeWitt, who commanded the forces in the West Coast at that time, made the recommendation to the President. And I assume the Commission will want to get into the decision-making process that was involved, who had the major responsibility? I was just following what Jim Rowe had said, and he said it was basically an Army decision.

COMMISSIONER MITCHELL: That was agreed to by the War Department representative basically. But the literature we read today makes it very obvious that there was division among the departments of the government, that no cohesive recommendation was made by various departments for the President to follow.

SENATOR JACKSON: I would assume that Attorney General Biddle -- I believe he was the Attorney General at the time -- must have been heavily involved in this. But, of course, he's no longer with us. Whoever in his staff may be around to give the Commission an opportunity to find out whether there really was a thorough interdepartmental review, I doubt it. I doubt it, but I hope the Commission will pursue that.

CHAIR BERNSTEIN: We certainly will probe both the documents and the people.

Thank you, again, Senator Jackson.

Congressman Danielson is a congressman from the 30th District in California, Los Angeles County, and like Congressman Yates, was a primary sponsor for legislation establishing this Commission.

Congressman Danielson?

STATEMENT OF CONGRESSMAN GEORGE DANIELSON

CONGRESSMAN DANIELSON: Thank you, Madam Chairman, and distinguished members of a most distinguished and heavily burdened Commission. I thank you for this opportunity to appear.

I ask unanimous consent that my prepared statement may be received in the record and I can ad-lib for one or two minutes and, I think, cover everything a save a little time. Would that be permitted?

CHAIR BERNSTEIN: Absolutely.

CONGRESSMAN DANIELSON: Thank you. First of all, I want to thank Senator Mitchell for referring to the War Department. It's very comforting when I hear someone allude to that Department in terms with which I'm familiar. We didn't start up the Department of Defense until about 1949 -- some of the people here don't even remember that there was a different name. I will address myself to only two points. First of all, following up the colloquy that has already taken place, I hope that this commission, and I know that it will, will seek out and find, will identify, and will set forth clearly in its report wherein we failed forty years ago so that we need not and must not fail again. I think that if we can achieve that goal, we will have done more than any other one thing that we can do. The charge for this

Commission as I see it -- and I thank God that I had a chance in my tenure in the Congress to have something to do with putting it together. I think the charge of this Commission goes far beyond assessing a dollar value of individual damages to the individual persons concerned, though they are grievous. I don't know that you can put a dollar sign on it.

We pride, as I see it, we pride ourselves in being a democracy. We pride ourselves above all in freedom, and it's a cliche that freedom is not free. We've been paying for it for more than 200 years, and if we should continue to exist, we'll continue to pay for it for many years to come.

The burden of that price of freedom is not evenly shared. Some die on the battlefield; they give their lives. Some are wounded; some are maimed. Some suffer the scorn of their neighbors because of their ethnic background. There are some who bear an undue financial burden. And, there are some who escape scot free. What I want to point out is that the burden of paying the price of freedom is not equally shared by all, but all of us are exposed from birth to the possibility that we may be asked to pay the supreme price or a lesser price. Or we may go home scot free.

In World War II -- and this is an episode of World War II -- 120,000 innocent persons, mostly of Japanese ancestry, but a few others, suffered a terrible price when they were arrested, transported, interned, relocated or whatever it may have been.

COMMISSIONER GOLDBERG: At their own expense.

CONGRESSMAN DANIELSON: At their own expense is correct, Mr. Justice.

COMMISSIONER GOLDBERG: They had to insure it at their own expense.

CONGRESSMAN DANIELSON: That is correct. And I come from California where I know that some people were rounded up and in a few hours, for practical purposes, they had to dispose of, as best they could, whatever their worldly goods were, because frankly, they lost them. That's what happened.

Yet I also know -- I served in the Navy -- I know there were others who died. . . were shot up. I'm on the Veteran's Committee. I go to hospitals, and I see people who are still bedridden and always will be. So again, the price of freedom, as I said before, is not free, and it is not equally shared.

I think that the real important thing that this Commission can and I hope will do is, as I said before, to identify and clearly to set forth wherein we failed, so that we shall not fail again.

I thank you, Madam Chair.

CHAIR BERNSTEIN: Thank you very much, Congressman.

Congressman Sidney Yates is the Congressman from the Ninth District of Illinois, City of Chicago, and I must add, if I may, Sid, you were my first campaign in the City of Chicago 30 years ago, and I remember it warmly. Welcome.

STATEMENT OF CONGRESSMAN SIDNEY YATES

CONGRESSMAN YATES: Thank you, Madam Chair and Members of the Commission.

I'm a co-sponsor of the legislation which created this Commission. I'm very pleased to be here today to testify in support of the purposes of the bill. I conceive this hearing to be of very great importance. This is the first major step this nation has taken in rectifying one of the most unconscionable violations of our government of the civil rights of any people. Everyone, to whom I've spoken in the Congress considers the action taken by our government at that time in incarcerating the entire West Coast Japanese community behind barbed wire a most flagrant injustice. And the question the legislation raises and which this Commission must consider is whether those who suffered as a result of that injustice are entitled to redress.

And your task is made even more difficult by the fact that the people who were treated so shamefully were among our best and model citizens of our community at the time when they were placed in the camps.

I want to go into that for just a moment. Obviously ours is a nation of immigrants, and among the immigrants who did so much for our nation were the Issei, the foreign-born Japanese Americans, whose determination and great faith in themselves, whose self-discipline and ability, enabled them to turn California deserts into

gardens to beautify and feed America. Many of them helped build the railroads that span our great nation, and many of them went into business and became highly successful. But always, the Japanese Americans were among the most dignified and public spirited citizens in their community.

At the very outset, the Japanese immigrants should have been welcomed to our country in the same manner as the peoples of European nations; and yet they were not. Their contribution to the community was as great, if not greater. They were helpful, they were temperate, they were never troublemakers. They were the model citizens in every community. And yet their reward, much too frequently from their American neighbors, was discrimination and hostility. And, the greatest wrong of all to the foreign-born Japanese, was the fact they were barred from the most precious possession within the province of any nation to give. . .its citizenship. This was a direct outgrowth of the unfortunate Oriental Exclusion Laws, and the passage of those laws marked a black period for the Issei in America.

But with all their difficulties and their troubles, the Issei maintained their stoical faith in themselves, expecting that some day the great tradition of American, and that's what's being tested by this Commission, the great tradition of American of providing of equal justice to all Americans should show itself. And though they themselves were ineligible for citizenship,

they put their time and effort into the development of education of their children so that they would have the benefit and enjoy the right of American citizenship. And they were loyal to their new country, and then of course came the attack on Pearl Harbor, and immediately the people of Japanese ancestry became targets for suspicion throughout the United States and Hawaii, and without cause or provocation, Japanese who had been living in California for many years were uprooted, homes destroyed, and they themselves placed behind barbed wire detention fences without a hearing or trial.

Madam Chairman, this should have been enough to kill the spirit of a less responsible group of people. But the reply from the Japanese parents was to send their children out from behind the wire fences into the American armed forces to fight the Nazis and the armed forces of their ancient homeland. And it should be of great honor to Japanese Americans that their sons became world famous as members of one of the greatest fighting units of all time, the 442nd Regimental Combat Team.

The record deserves mention because it was so outstanding during World War II. There comes to mind the record of Sgt. Ben Kuroki, who flew 58 bombing missions over Europe and Japan and became a national hero. Two Japanese American units, the 442nd Regimental Combat Team and the 100th Infantry Batallion, later merged with it, were among the most decorated in the history of the United

States Army. Fighting in Italy and France, the 442nd more than lived up to its regimental motto "Go for Broke," a Hawaiian idiom meaning "shoot the words." It won ten unit and more than 5,000 individual awards. Six hundred fifty of its Purple Hearts had to be delivered to the next of kin. No man in the 442nd ever deserted, a remarkable record. Americans of Japanese ancestry not only fought the enemy abroad but had to bear the brunt of prejudice at home.

Many thought that they would be joining in with our foes at that time, but exhaustive investigations by the Army, Navy and FBI showed not one act of sabotage was committed in Hawaii, though citizens and residents comprised one-third of that then territory population.

Their citizenship could not have been more exemplary. I know that because following World War II, many came to Chicago rather than return to California. I came to know them in 1948, and I came to know them well because I ran for Congress for the first time that year. And they asked only one pledge of me as candidate for that office, and that was that I would consider favorable legislation which would permit their parents to become citizens.

When I was elected to Congress, the first bill I filed was one which would grant the opportunity to become citizens to the Issei.

It took four years for the bill to be passed. In 1952, the Congress passed the bill setting aside Oriental Exclusion Laws and providing that no person should be deprived of the opportunity to become an American citizen because of race.

Legislation -- and I remember going over this with my good friend Mike Masaoka who is in the audience this morning. There were so many things that had to be compensated for, and special legislation provided for, because they happened to be Japanese Americans. War brides they married had to have special legislation. Claims were filed, but the claims allowed by the Congress were only a pittance of the actual losses that took place against those who had been placed in the camps.

And so I believe that this nation has a deep moral and special obligation to recognize the need to right, to the extent it can be righted. And Justice Goldberg was right in saying the monetary compensation is proper. I'm sure the Justice remembers the story of the time that Clarence Darrow was asked by a client, whose cause he had successfully prosecuted in court, how she could ever possibly pay for what he had done for her. Darrow replied: "Madam, the Phoenicians made that clear when they recognized monetary standards for compensation." I think the right to redress should not exclude that.

I don't know what Senator Jackson's thought was on that point. Those wronged by this country by improper

incarceration should have some measure of compensation. This is a great wrong that has been done by our country, by our government, and I think that this Commission can meet its challenge and its responsibilities by recommending appropriate redress.

Thank you.

CHAIR BERNSTEIN: Thank you, Congressman Yates. Would any of the Commissioners like to make a comment?

COMMISSIONER GOLDBERG: I would like to state one thing. The congressman is an outstanding advocate of human rights in Congress, I think, and a member of the House-Senate Commission --

CONGRESSMAN YATES: Of which you were the Ambassador.

COMMISSIONER GOLDBERG: And, in addition, Congressman Yates, there was a recommendation made to the Commission that will be a most important factor since he is the ranking, now minority ranking, member of the House Appropriations Committee.

CONGRESSMAN YATES: May I say in passing, you referred to the great work done by Senator Jackson in providing redress for Native Americans in Alaska, and that came before the Committee of which I am chairman.

COMMISSIONER GOLDBERG: I know that very well.

CONGRESSMAN YATES: And we are making some compensation for the wrongs that had been done to those people as well; and I hope on my Appropriations Subcommittee that it may be called upon as a result of your decision to remedy the wrong done.

CHAIR BERNSTEIN: We will look forward to that.

COMMISSIONER MITCHELL: I would like to concur with what Justice Goldberg said, and to say that Congressman Yates was my colleague; we were elected to Congress the same year.

CHAIR BERNSTEIN: Evidently what you had to do to get on this Commission was be Congressman Yates' constituency.

I'm sorry for the delay, Congressman, and thank you very much for your statement this morning.

Our next witness is Mike Masaoka, who was scheduled to have appeared on Tuesday like Congressman Yates, and because of our scheduling problem, most graciously agreed to return this morning. I've gotten to know Mike even better in the last couple of weeks because we were on television last night very late. Are we both awake, Mike?

MR. MASAOKA: I am.

CHAIR BERNSTEIN: Mike was the National Secretary and Field Executive of the Japanese American Citizens League in 1942.

Mike, welcome this morning, and please proceed with your statement.

STATEMENT OF MIKE M. MASAOKA

MR. MASAOKA: Madam Chairman, and distinguished Members of the Panel. My name is Mike Masaoka. Today I am appearing as an individual.

Some of my experiences go back further than most Japanese Americans living today, and as Congressman Yates and Senator Jackson pointed out, I have been here a long, long time. As a matter if fact, the appearance of the Members of Congress yesterday and today indicate one great change in the atmosphere relating to Japanese Americans. But when I first came to Washington in the spring of 1942, I was actually jailed, if you will, by the security forces in the House of Representatives as a dangerous Jap, because I was simply looking for my Congressman's office.

It took my old college professor, then a senator from Utah, to rescue me from that temporary embarrassment; and incidentally, at least nine times I was incarcerated by some law enforcement agency somewhere in the United States because I tried to plead the cause of justice for those of us who happened to look like the enemy.

All throughout the careers of Japanese Americans like myself we hoped for a commission of this type because we have great faith in America, a faith that many others fail to have today. As Congressman Yates pointed out, justice in time will be done. And as a matter of fact, I feel in a sense that this Commission represents democracy trying to correct one of its abuses. And as one who fought -- and I had a brother killed and another one-hundred percent disabled in the 442nd Regimental Combat Team -- I have much to say, and unfortunately time is a bit short.

I do not have any prepared statement because my cardiologist said that I just could not get down to that kind of work at this time, and, as a matter of fact, I ought to avoid all tension and all confrontations.

Nevertheless, I feel so strongly on this issue that I asked for the opportunity appear. And for persons of Japanese ancestry, Madam Chairperson and Members of the Commission, this is an important commission, because for the first and perhaps last time it will give us the opportunity to write the history of this tragic period as we who suffered and endured it remember those tragic times. Most importantly, for the sake of al Americans and free people everywhere, as well as our children and our children's children, we want the record to show that under the most extreme demands of our government, we demonstrated a courage, a loyalty and, if you please, a faith that today ought to inspire men of good will throughout the world that these United States remain the last best hope of mankind.

Senator Jackson was Chairman of the Government Operations Subcommittee and Congressman Danielson was Chairman of the House Judiciary Subcommittee, both of which considered this legislation, so I think it was most appropriate that they be here and testify as to their respective hearings. As a matter of fact, of all of the members of the Congress of the United States in both the House and Senate in the year 1942, only Senator Jackson remains as a member of the national legislature.

As far as Congressman Danielson is concerned today, his area includes about as many Americans of Japanese ancestry as any other congressional district in the United States, save one or two in Hawaii, especially when you consider that it is only on the mainland of the continent of the United States.

Congressman Yates referred to the period when he first came to Congress. At that time he had more Japanese Americans in his congressional district than any other city in mainland America.

The fact that these gentlemen came and testified to our loyalty and their belief that we are entitled -- yes, entitled -- to some kind of redress, I think expresses more than I can, the great difference in public opinion then in 1942 and how in 1981.

As I listened to the speakers yesterday, time and time again it became apparent that while President Roosevelt may have signed Executive Order 9066, there remained a great question as to how he reached that opinion, who advised him, with whom did he consult, etc. And last evening I consulted General DeWitt's final report on the evacuation of 1942. I also examined a book called Command Decisions, written by the Office of Military History of the Department of the Army. It lists the chronological story of the evacuation, but there is no correlation established between who were the most significant and influential persons who expressed the

opinions to the President that resulted in this command decision, because it was one of the great decisions of World War II, in spite of the fact that many people tend to minimize that today.

One question that bothers me though, and I think the Committee ought to explore this kind of question, relates to the Executive and his cabinet during World War II.

Strangely enough, the last memorandum that Lt. General DeWitt sent to Secretary of War Stimson and eventually to the White House on or about February 14, 1942, recommended the removal from their west coast homes and associations of Japanese aliens, German aliens, and Italian aliens, as well as other subversive persons, including those of Japanese ancestry.

On February 19th, just five days later, the Executive Order was so written that German and Italian aliens who numbered far more than the Japanese aliens in the United States, and, as a matter of fact, they numbered more just on the west coast than all the Japanese aliens in the United States -- were not included in the Executive Order 9066.

The question was raised yesterday as to whether the President had ever visited a relocation center. To the best of my information and knowledge, he did not. However, that gracious, that good lady, Mrs. Roosevelt did. As a matter of fact, she was the first White House

official we called on in Washington, and she responded to some of our problems.

I think Justice Goldberg, Dr. Flemming and Senator Mitchell at least will remember on the day after Pearl Harbor, the Treasury Department froze all the bank accounts for the so-called enemy aliens. Among the Japanese, very little distinction was made between enemy aliens and citizen children because of the age factor. So, for all practical purposes, our people on the west coast were deprived of the use of their own bank deposits. Somehow, in order that they would not starve, I was able to call my friend the Senator, Elbert D. Thomas, who was then Chairman of the Military Affairs Committee, and he suggested that I talk with Mrs. Roosevelt. I asked how do I get to such a high person? And he said he would arrange it.

I remember well that Mrs. Roosevelt was gracious enough to see the merit of our cause and persuaded the Department of Treasury to unfreeze the accounts sufficiently to allow the various family members to sustain themselves.

Later on, of course, we talked to her from time to time about the evacuation, and I am persuaded that though the President personally may not have known of some of the activities in connection with the evacuation orders, Mrs. Roosevelt understood and sympathized with us.

As a matter of fact, she wrote a forward for the book <u>Beauty Behind Barbed Wire</u> in which she talked not

of the evacuation orders, but about the fact that in spite of the dreariness of the desert camps, in spite of the lack of supplies, and in spite of the lack of inspiration, the Japanese evacuees had the character to build, with their own hands in the camps: little gardens, Bonsai, and different Japanese artistic things. She said that this is a remarkable tribute to the character of our people and she raised indirectly the question of what others might do in similar cases.

Yesterday and today we heard officials, or then officials, of the Government of the United States, admit that their departments may have made a mistake in approving this movement. And the inference was that perhaps a public apology might be a satisfactory end of their commission's recommendations.

Senator Jackson alluded to that today as well as to what he called a code of conduct for government officials in wartime.

Senator Brooke, out of his experience as a member of a colored minority pointed out, and I think justly so, that in our legislative system and in our judicial system, a long established precedent is that we compensate individuals for damages or hurts done to them in terms of money.

Now at a later time I will discuss, if I have the time, various remedies which this Commission might consider. But I do want to say as far as an acknowledgement

of a mistake or of errors is concerned, Congress and the Government of the United States has done that on at least three previous occasions.

First of all, in 1948 at the prodding of President Harry Truman, the Japanese American Evacuees Claim Act was passed. Although I will have much more to say about this later, I will simply say that this was the token, and as we reflect back, this in a sense was an injustice, because many of the people who were entitled to compensation did not have the kind of claims that were contemplated by government lawyers who were never evacuated, who looked at the law strictly and looked technically at the budget rather than at the humane concerns.

I also think in the hearings, as well as in the statements of the committee reports, there is the definite statement that the federal government, including the Congress of the United States, made a mistake in our wartime treatment of Japanese Americans.

The second instance, when this matter came up before the Congress, and this whole subject was revised in part, was when, as Congressman Yates pointed out, Congress considered in 1952 the passage of laws which for the first time -- for the first time in American history -- gave the Japanese the right and opportunity to become naturalized citizens.

Let me cite an example of this discrimination. My mother, if you please, a woman who lost her husband

in 1924, had five sons in combat at the same time in the Army of the United States -- one of two American families that could claim this distinction. She lost a son in the rescue of the Lost Texas Battalion to which General Clark alluded yesterday. Another son is one-hundred percent disabled. Yet she could not become a naturalized citizen of the land of her adoption. And when a grateful government paid her $20,000 for the death of a son and the 100 percent wounding for life of another, she purchased a piece of land in California in which to build a home and to live out a useful life. California escheated her of that property, took it away because she was not eligible for citizenship.

In 1952 for the first time, our government gave this opportunity for naturalization to people like my mother and thousands of others.

In 1971, the Japanese American Citizens League and others, in an effort to try to prevent a repetition of our World War II experience, passed the repeal of Title II of the Internal Security Act of 1952. Senator Spark Matsunaga, then a representative, led the movement in the House.

The meaning of this action is this: In the witch hunts of the '50s, which I'm sure most of you recall, Congress wrote a preventive detention statement which would provide, and did provide, that after the President's veto of this legislation was overridden,

in times of invasion, public emergencies or insurrections, officers of the United States Government could detain in protective custody, if they had any suspicion that these people might cause damage or harm to the United States, any citizen or alien. Those words hauntingly remind me of World War II and our travail.

And in an effort to make it effective for the future so that no other American would ever have to suffer the humiliation and the degredation of being treated as we were, a special provision was written for that law which very few even can think of or remember today.

That special provision said that before the President or any of his authorized deputies could take action resulting in preventive detention, the Congress would have to approve such an action with appropriate legislation. Concededly this is weak, but it was the best Congress could think of in 1971. We hope this Commission can do better in preventing a repetition of 1942.

The point, however, is that we have been trying constantly over the past many years, trying to secure equal justice for all Americans, not just ourselves.

And finally, of course, on February 19, 1976, the Bicentennial of our Republic, President Ford officially revoked Executive order 9066, which still remained on the statute books as a grim reminder of what can happen even in a democracy like ours if racism becomes rampant and logic and reasoning and the Constitution are forgotten.

After reviewing the testimony yesterday and trying to decide where I could be most useful, although most of you may be aware of the various terms, I thought we might consider for the record at least a glossary of terms, both those that were used commonly by Americans of Japanese ancestry and also by General DeWitt in his final report. Some of these comparisons may shock you.

First of all, Issei, as Congressman Yates pointed out, is the first generation immigrant group. By operation of our federal naturalization laws and through no fault of their own, these immigrants remained aliens in the United States, in the land of their adoption, and in the country of their citizen childrens' birth. German and Italian immigrants coming to the United States legally for permanent residence could become naturalized citizens of the United States, but the Asians could not.

In World War II by automatic operation of the law, Issei were unnaturalized aliens who were declared enemy aliens.

The Nisei, that is my generation, is the second generation, so-called the Japanese, or the first generation Americans. Curiously enough, General DeWitt uses the term Nisei in his final report as being, quote: "Any person of Japanese ancestry not born in Japan." unquote.

This is not too bad a definition, but later on it has some important connotations as I continue my glossary of terms descriptions.

Sansei is the third generation, our children. They are the ones that resented the use of the word Nisei meaning any American of Japanese ancestry, regardless of their particular generation.

And so the word "Nikkei" became more fashionable. Nikkei is a Japanese American word for a Japanese American, an American citizen of Japanese ancestry born in the United States.

Yonsei and Gosei are the fourth and fifth generations of American born citizens.

We have a word that generally has been in bad repute -- unfortunately and mistakenly -- and that word is Kibei.

The Final Report by DeWitt decided that American-born Japanese who received some of their education in Japan were more loyal to Japan than were American Nisei or even the Issei. Kibei were treated as a single class and they were subjected to more discrimination and prejudice than Nisei and Issei.

Yet in the final analysis, the Kibei formed the core of the Japanese American troups in the Pacific who fought the Japanese enemy; and while I'm proud of having been a member of the 442nd Regimental Combat Team, I take my hat off to the Nisei who served in the Pacific, including Judge Marutani, because had they been captured by the Japanese enemy, the atrocities to which they might have been treated cannot be described.

What is a person of Japanese ancestry? This is what DeWitt says in his final report: "Any person who has a Japanese ancestory regardless of the degree, is considered a person of Japanese ancestry."

That does not seem too harsh, but when it was translated into a regulation by the Army, and particularly by Colonel Bendetsen who was in charge of the evacuation movement in the first instance for the military; if you had as little as 1/16th Japanese blood, you were considered qualified for these camps.

Now what is so special about 1/16th? I'll tell you. Adolf Hitler in all his gruesome madness never went this far in establishing a standard for his death camps, his genocide camps. You only had to be 1/8th Jewish blood.

Yet a general in the Army of the United States and a colonel say that in America, if you are 1/16th Japanese blood, you were forced by these circumstances of being Japanese and being forced to go to camp.

"Enemy alien" I have described before as our alien parents in the case of the Japanese, and German and Italian aliens in other cases, noting again that while Germans and Italians were eligible for naturalization, Japanese aliens were not.

It is curious perhaps that in spite of their ill treatment during World War II and during a lifetime in the United States, the Issei wanted to become American

citizens so badly that when the enabling law was enacted in 1952, more Japanese aliens applied for naturalization than any other immigrant group. In fact, in one area of the State of California, over 1,000 Issei, most of whom had sons in the Army of the United States, all of whom were in these camps, became naturalized citizens in one ceremony.

An Internee. An internee happens to be an individual enemy alien, in this case of Japanese ancestry, against whom the FBI thought they had some reason to suspect that, if given the opportunity, they might do some harm to this government.

These people were individuals; they were interned on the basis of individual reports by the FBI in enemy alien control camps, administered by Mr. Edward Ennis, who Jim Rowe and others described as the real hero of the anti-executive order movement.

Now, a curious situation happens here. We are American citizens while the enemy aliens, they are not citizens. Yet they were protected by the Geneva Convention concerning standards for feeding, for clothing, for housing. We, who are American citizens, had no such standards, and our citizenship meant less than a person against whom the FBI thought they had an individual reason for suspicion.

I might say parenthetically that the enemy alien control unit adopted a system of 3-member boards

to hear the various internees who technically were taken to these internee camps, and with about three exceptions, all were released in time.

May I repeat, in cases where individuals were suspected of potential treason, espionage and sabotage, when the FBI thought they had individual evidence, these people who were aliens were entitled to a hearing. Yet we American citizens weren't accused of any crime, except that of birth. We had no hearings, not even by hearing boards let alone the courts. And, incidentally, Senate Leader Mike Mansfield, now United States Ambassador to Japan, told me that his first experience with the Japanese was when he served as a chairman of the alien hearing board in the so-called internment camp in Missoula, Montana.

CHAIR BERNSTEIN: Mike, are you going to leave some time for the Commission to ask you some questions?

MR. MASAOKA: Yes. The problem with these hearings, I suppose, is that those of us who are personally involved have so much to say that we can't get around to it; in fact as you know from the statement I gave you, I am prepared to cover almost every phase of the evacuation.

Unfortunately, time is short, and in fact I have not even gotten around to a number of things.

CHAIR BERNSTEIN: I didn't mean to interrupt, but we do have many witnesses today, and I know the Commission might want to ask questions of everyone, so we need to accommodate them.

MR. MASAOKA: Let me just say two little things about the so-called military necessity argument then, which is the reason according to the official report for evacuation.

Every reason given by General DeWitt, Earl Warren, then Attorney General of California, and others, as far as evacuation is concerned, applies equally well, if not more so, to the Japanese Americans in Hawaii. They were 3,000 miles closer to the enemy; the territory of Hawaii was under actual attack. There were more Japanese language schools there, more Japanese so-called Shinto temples; there were more Japanese clubs and cultural organizations. Yet their military commander did not think the threat was grave enough to declare martial law.

Had General DeWitt declared martial law, then he would have had a better case. This, to me, is a case of rank racism, and racial exploitation, unheard of even in the United States.

President Truman was good enough to have me as one of the consultants to his very famous Commission on Civil Rights in 1948. That Commission concluded that the deprivation of our freedom was the greatest civil rights violation since slavery.

Another aspect of this racism is that General DeWitt, Colonel Bendetsen and others made Military Area Number 1 the western halfs of Oregon, Washington, and California, and the southern third of Arizona, prohibited

zones from which Japanese aliens and non-aliens were to be excluded. The rest of these states were declared Military Area Number 2. In the first instance, General DeWitt and Karl Bendetsen invited the Japanese at their own expense to sell their property and leave their home areas in Military Area 1 and then move to Military Area 2 or anywhere else to avoid removal from the prohibited zone.

Six months after the designated Military Area No. 1, without warning or notice of any kind, only the eastern half of California was declared a military zone within Area No. 1. If it was military necessity, why only the eastern half of California? And let me remind you again that an eleven month period elapsed between the attack on Pearl Harbor and the removal of the last person on the West Coast to an assembly camp.

I'm sorry, Madam Chairman and Members of the Commission, I have taken so much time, and I will be pleased now to answer any questions you have, and I certainly solicit, if I may, the opportunity to appear before this Commission again, and go into some of the aspects that will trouble you.

As you go around the country you will hear all kinds of things about our organization which did so much; you will hear about me, because I was Moses Masaoka, the only Christian who ever led his people out of civilized communities into desert camps, and I know what it means to have people of my own race create little effigies and

deficate and urinate on them. I know what it means to be a Japanese American. I know what it means to want to testify, and so, Madam Chairman, may I ask for the indulgence of this Committee and request them to ask any questions they may wish.

CHAIR BERNSTEIN: Thank you for a very eloquent statement, Mike. I'm sure you will have the opportunity again to appear before this body as we continue the hearings.

May I follow the same order that we established on Tuesday, beginning with Judge Marutani.

COMMISSIONER MARUTANI: I will defer to Senator Brooke for the time being.

COMMISSIONER BROOKE: I have nothing.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: No.

CHAIR BERNSTEIN: Justice Goldberg?

COMMISSIONER GOLDBERG: No. It is impossible to ask you questions when such a persuasive and eloquent statement was made.

CHAIR BERNSTEIN: Indeed.

We have with us this morning Dr. Arthur Flemming who was not with us on Tuesday. Welcome, Arthur. Would you like to ask a question or make a comment?

COMMISSIONER FLEMMING: It is a privilege to be here, and I regret not having been here on Tuesday, but there was a meeting of the Civil Rights Commission which I found necessary to attend.

I just want to express my deep appreciation for your testimony. It has been extremely helpful to me.

MR. MASAOKA: Before you ask Senator Mitchell to comment, I would like to say the only mayor of all the western cities who opposed the evacuation was Harry Cain of Tacoma, who served after or before Senator Mitchell, and I would like also to comment on the fact that Senator Brooke served in the Allied 5th Army in Italy, which was kind of an international league of nations outfit. I understand from him that he served on our flank, and we both agreed had we been put into the war earlier that European phase would have ended earlier and had we been allowed to go to Japan, the Pacific War would have ended earlier.

CHAIR BERNSTEIN: I think we could get a unanimous vote from this body to that.

Senator Mitchell?

SENATOR MITCHELL: I should say more than thank you, which I say from the depth of my feeling, that Senator Cain preceded me in 1946.

MR. MASAOKA: That is right, and he was then defeated by Senator Jackson.

CHAIR BERNSTEIN: Mike, thank you very much.

COMMISSIONER GOLDBERG: You probably know about it, but I'm sure that during my tenure on the Supreme Court, we had a case similar to the legislation you talked about. One drop of blood on the Japanese or a black, if

you happened to be black, made you a black, ineligible at that time to get a ballot -- which was not designated ballot, you had to stand in line separately, and I should say for the record that unanimously during the period that I served in the war there, that was reversed unconstitutionally.

MR. MASAOKA: I would like to add for the record, the only group that forcefully worked for the prevention and exclusion order effectively was the then newly organized CIO, Congress of Industrial Organization, and especially the UAW. So I know the part that Ambassador Goldberg has played in human rights, as I know the record of all of you have. Therefore, I have great confidence that you are going to come up with something innovative and something very worthwhile. Thank you.

CHAIR BERNSTEIN: Thank you again, Mike.

We have, next, a panel representing three Japanese American organizations. If I may introduce you, the Japanese American Citizens League is represented this morning by Dr. James Tsujimura, the national president; and Mr. Minoru Yasui, chairman of the National Committee for Redress. The National Council for Japanese American Redress is represented by Mr. William Hohri, its chairman. And third, the National Coalition for Redress and Reparation, Mr. Bert Nakano, who will speak for the organization.

I welcome all of you. We have put this together as a panel again in the interest of time. We want to have as many people and organizations participate in these proceedings throughout, and most particularly on these opening days. We have allowed about an hour on our schedule for all three. I would urge all of you, as we did yesterday, to enter your full statements if you have them, for the record, and summarize them as appropriate. I know that the Commission not only enjoys but would welcome the opportunity to discuss these things with you.

I don't know how I got so lucky as the person to describe the rules and keep the time, but there you are.

I think we will begin with Mr. Hohri if we may.

STATEMENT OF WILLIAM HOHRI

MR. HOHRI: Thank you, Madam Chairperson, I am William Hohri of Chicago, Illinois, Chairperson of the National Council for Japanese American Redress. I was interned at the age of 15. My family and I were incarcerated at Manzanar, California during the period from April 3, 1942 to August 25, 1945.

NCJAR was founded in May 1979 for the sole purpose of obtaining monetary redress for Japanese American victims of World War II concentration camps. We seek compensation for injuries and damages suffered by the evacuees, the detainees, and the internees, or their heirs. We want reparations for the deprivation of our

civil and constitutional rights; for wrongful evacuation, detention, and imprisonment and the suspension of due process; for our loss of income, property, and education; for the degradation of internment and evacuation and for the psychological, social, and cultural damage inflicted by our government.

NCJAR's goal of redress was late in coming but is shared by thousands who were themselves incarcerated or who are children of those incarcerated.

In the 96th Congress, the NCJAR sought enactment of legislation to provide such redress. We supported H.R. 5977 sponsored by Representative Mike Lowry of Washington State and co-sponsored by 20 other members of the House of Representatives. Instead of redress legislation this Commission was established in what, in my judgment, was an act of political expediency. We believe that the further study of this matter would serve only to delay justice long overdue, justice already denied through delay to most of our parents who have died. We were opposed to the creation of this Commission because we were offended by the idea of victims of the internment having to testify in public to describe their ordeal. It seemed to us that such a procedure would impose further humiliation -- publicly forcing us to relive a cruel degradation, an exhibition which would be upsetting and distasteful. We have been exploited enough.

It is inconceivable that any other group of Americans, during such an ordeal, would have volunteered for military combat and engaged in legendary acts of sacrifice and heroism to prove their worth and our worth as citizens. I do not in any way degrade the exploits of the Hawaiian 100th or the 442nd Regimental Combat Team. They had a point to prove and they did it bravely and with honor. But frankly, it is not appropriate to make continued reference to their bravery as though it were necessary for our being accepted as full citizens. We are all citizens by reason of birth and by law, not by the blood sacrificed by our brothers on the battlefield.

It is inconceivable that any other group of Americans, in the aftermath of World War II, would accept reimbursement of only nine percent of their property losses as just or other symbolic tokens of restitution, such as the recision of Executive Order 9066, as correction of the orders compelling evacuation and incarceration.

The formation of this Commission was seen as merely another token, a mechanism for an official apology or for providing educational benefits. As such, it was an affront to our dignity as citizens; an affront to the terms of our freedom as spelled out in the constitution; an affront to our great tradition of equal justice before the law. For these reasons, we were skeptical, perhaps cynical, of a Commission which is mandated to study the subject and make recommendations. The Commission, in its defeat of

the Lowry Redress Bill, became the answer to our legislative demand for redress.

So now, the National Council for Japanese American Redress is undertaking to institute legal proceedings to obtain redress. While we know that substantial obstacles lie in our way, we also believe that the full record of the federal government's action has not yet been disclosed to a court of law.

I realize that whatever the reasons which led to its creation, the Commission now has its own agenda. You are capable of making your own observations, doing your own study, and arriving at independent conclusions. We are here today to submit some proposals for your consideration. Here are three of them:

1) As you travel and listen to our Japanese American communities, please encourage testimony from the dissidents from the internment period, both Japanese and non-Japanese. Listen to the people who fought the government and its injustices, and were crushed. Perhaps the most outstanding example of this resistance was Joe Kurihara, who died about ten years ago in Japan.

Joe Kurihara was a World War I veteran, a citizen, and a proud patriotic American. He witnessed the inhumane, 48-hour evacuation of Terminal Island by the Navy, and was deeply disturbed. He was prepared to join the fight against the exclusion order, and was angered when he learned that the JACL, instead of fighting

for its people, was urging cooperation. As he said, "The goose was cooked." He became pro-Japan. But it was with a Kuriharan twist. He proclaimed he was going to Japan "with democracy my goal." His fate was sealed when he was arrested, with fifteen others, in the wake of the Manzanar uprising on December 6, 1942. For these Manzanar Sixteen, there were no charges specified, no trial or hearing granted. He eventually went to Tule Lake and was on the first boat to Japan as a renunciant of his battle-proved citizenship.

Disloyals were cited in high places, including the Supreme Court, as justification for the massive denial of our rights. But consider the reason for the acts which were interpreted as disloyal. Is not anger at such foul injustice a legitimate, nay, a welcomed human emotion and response? When the question of loyalty was couched in terms of our yielding unqualified allegiance to a government which had demonstrated a capacity for injustice, was it not the best and deepest human instinct to say "No?" And why did we have to prove our loyalty by affirming our willingness to served in armed combat? Is that the only measure of a citizen's loyalty?

Though Joe Kurihara is gone, there are others in this group who are still active. There are others in the Manzanar Sixteen. There are still members of the Heart Mountain Draft Resistance, young men then who refused induction as long as they were behind barbed wire.

All you have to do is ask.

2) As you listen to the victims, I think you are going to discover that by and large they have no idea what hit them. They have not read and absorbed some of the excellent books written, most notably Michi Weglyn's Years of Infamy, and Roger Daniels' The Decision to Relocate the Japanese Americans. The former internees have not plowed through the documents in the files of our government and of our former officials. They are now aware of the careful premeditation that went into the construction of Executive Order 9066 which led to the government's contention that the concentration camps were not racially motivated. They only know that all the faces in their camps were Japanese.

Nor do the victims realize that their compensation for labor at six to eight cents an hour fell far below the Geneva requirement for prisoners of war. They only know that it wasn't much, that it did not allow for much improvement in their bleak, spartan existence.

And they are completely oblivious to the deeper, far more serious mechinations of the War Department, which actually proposed legislation for the suspension of that writ of habeas corpus and legislation to cancel -- if that is the proper term -- our citizenship.

They only know that they were held in desolate enclaves, surrounded by barbed wire and guard towers, which no less a person than President Roosevelt called

"concentration camps" in his press conferences of October 20, 1942 and November 21, 1944.

Nor was this the first time that term was used. In a memorandum for President Roosevelt, the Secretary of the Navy suggested that one step to impress the Japanese with the seriousness of American preparations for war would be: "Prepare plans for concentration camps." This memorandum for the President is dated October 9, 1940. That's 1940, fourteen months before Pearl Harbor. A copy of the memorandum is appended to this statement.

The information that is truly germane to an understanding of this issue lies buried, but available, in the files of our government. The National Council for Japanese American Redress has uncovered literally thousands of pages of such documents. It has been a labor of love, mixed with sorrow and anger, performed voluntarily and with our own funds.

Much pertinent intra-governmental correspondence, memoranda, analyses, telephone conversations and so forth, such as the October 1940 memorandum, have come to light. They substantiate a record of unconstitutional and immoral government action. A comprehensive, authoritative governmental report documenting the government's malfeasance may serve to prevent the recurrence of a similar national travesty.

You will not be able to do all the research necessary in the limited time you have. But you can

certainly get some understanding of what still lies buried in those thousands of documents. You can consider those materials in your final report and recommendations. We will seek to provide such assistance as the Commission or its staff requests. We pledge NCJAR's cooperation in your efforts.

3) The National Council for Japanese American Redress has embarked upon the task of finding a legal remedy. We are quite serious in our intent of suing the United States. But as you are aware, we face significant obstacles in court. The question we ask you to consider is this: Will this Commission be willing to recommend a mechanism which will enable a fair adjudication of the case for compensating the class of Japanese American internment victims? The historic fact of mass evacuation and imprisonment motivated by racial bigotry was a flagrant breach of American principles of equal justice. While the fact cannot be excised from history, remedies can be devised to compensate the victims, and help restore the democratic ideal in our society.

I am not a lawyer, so I will not attempt to enthrall you with legal arguments. But let me simply point out that, on the one hand, we have an extreme, an extraordinary deprivation of civil and constitutional rights on a massive scale. Does it not require, then, an extraordinary measure to permit the injustice to be remedied?

Ultimately, justice is due all of us, all the citizens of a democratic society. We have written and amended our own Constitution. We have enacted our own laws. And by and large we obey these laws. And when we do not, or when contentions occur, we act, often as a jury, to determine the issue on the basis of hearing the facts and applying the law.

Clearly, we Japanese Americans have not had our day in court. That, in a sentence, is the essence of this issue. Given the wisdom of our democratic system of self-government, is it not possible to find the means which will enable us to have, at long last, our day in court?

Thank you.

CHAIR BERNSTEIN: Mr. Hohri, thank you very much, you were right on time, which I very much appreciate. I would like if I may to continue the testimony and hold all the questions until the end and the Commissioners then can address their questions to individuals if that's agreeable.

Mr. Nakano, welcome.

Will you introduce your fellow spokesman, please?

STATEMENT OF BERT NAKANO

MR. NAKANO: My name is Bert Nakano, and this is Sasha Hohri from the Concerned Japanese Americans of New York. I appreciate this opportunity to speak to you here in Washington, D.C. The National Coalition for Redress/Reparations considers these hearings a very

important means of educating the public about the concentration camp experience and the impact it made on the Japanese American community. We in the NCRR have been busy organizing in our communities nationwide; we played a major role in bringing the redress/reparation issue to the Japanese American communities by speaking to community groups, churches, social service agencies, student unions, gardeners' federations, workers clubs, civil liberties unions, and others. Our supporters and endorsers include groups such as the ACLU, the United Teachers of Los Angeles, chapters of the JACL, Asian State Employees Association, the numerous community groups and organizations.

The NCRR was formed in July of last year for the purpose of seeking restitution for losses and injuries suffered by Japanese Americans and others unjustly uprooted and incarcerated by the U.S. Government, and to seek preventive steps so that similar violations of constitutional rights will never happen again. The NCRR will use whatever means is necessary which will result in the fastest, most direct and most substantial form of restitution.

As we all know, one of the objectives of the Commission is to determine whether a wrong was committed. We applaud the attempt on the part of the Commission to conduct research, but at the same time, we feel that Japanese Americans should not be put in a position of proving that a wrong was committed. All the facts are

available in the books and government documents. We maintain that restitution is not only deserved but long overdue and that the Japanese American community has every right to demand redress and reparations.

But before going into the points which the NCRR believes are essential in addressing and redressing the wartime relocation and internment of civilians, we would like to briefly touch on the history of Japanese Americans. This is important to establish a clear and correct perspective on the concentration camps experience.

The history of the Japanese in America is marked throughout by racism, racism that increased in scope as the Japanese people found ways to survive despite these attacks. When Japanese were excluded from major trade unions, they formed their own trade unions and fought for equality of wages and conditions. When Japanese could not buy farmlands, they cleared the unwanted swamplands. They produced some of the richest farmlands and this was on only 4 percent of all farmlands, from which 50 to 90 percent of certain crops were produced.

As the role of Japanese in agriculture grew, violence against Japanese and their property coincided. Violence was followed by organized opposition that methodically attacked the rights of the Japanese. Like the Chinese immigrants, the Japanese were prohibited by law from becoming citizens. This uncertain status was the basis of the legal discrimination suffered by

Japanese people. Japanese were barred from certain professions, from intermarriage, public schools, they were denied political and judicial rights. Other rights, such as the fishing rights on the California coast, were constantly under attack. Japanese in agriculture had to fight progressively restrictive land laws aimed at reducing them to hired hands. In 1924, the anti-Japanese forces succeeded in organizing the successful passage of the Asian Exclusion Act. Anti-Japanese legislation continued to be introduced but the years following the Exclusion Act were years of relative calm for the Japanese people.

When Japan declared war on the U.S., over 2,000 Japanese community leaders were immediately arrested. For the first several weeks following the declaration of war, the Japanese were not subject to attack. But anti-Japanese groups began to raise racist suspicions about the Japanese people. To their voices were added those of the military. The war provided the atmosphere to achieve their goal, the removal of the Japanese from the West Coast. Vicious stories were created and presented as fact by major newspapers. Government officials stated publicly, with authority, completely unfounded suspicions. The Japanese people were judged guilty solely on the basis of race; no Japanese or Japanese American was accused or convicted of any act of sabotage and espionage.

We heard many reasons for the incarceration. One of them was that a mass incarceration was required for

national security and the lack of time available to separate the loyal from the disloyal. We were not told that the President had ordered a special investigation into the loyalty of the Japanese. A full month before the attack of Pearl Harbor, Curtis B. Munson had submitted an exhaustive study with the cooperation of the FBI and the Naval and Army Intelligence which had been studying the Japanese a full ten or fifteen years prior to the war. The Munson report concluded that there was no problem on the Coast. This report was kept secret, and on February 19, 1942, President Roosevelt signed EO 9066 leading to the imprisonment of 120,313 guiltless people, each of them building their lives, clearing land to farm, going to school, and building their communities, were uprooted and sent to live in a community made up of blocks and blocks of tar-papered barracks, in the most desolate areas of our country.

The camps then caused immeasurable damage to our people and our communities. This damage has never been adequately addressed. It is for this reason that there has always been a strong sentiment within the community for redress and reparation. Through the process of community-wide discussion, the following five guiding points have emerged as principles and demands of the NCRR:

First and foremost, we believe that a just Commission recommendation means monetary compensation to individuals or heirs of individuals who suffered evacuation

or incarceration due to the actions of the U.S. Government during World War II. Numerous surveys conducted by the member organization of the NCRR, as well as those conducted by JACL, the National Council for Japanese American Redress, and the Seattle Community Coalition for Redress and Reparation, have all shown that monetary compensation to individuals is overwhelmingly favored as the most just form of restitution. No sum of money can approach complete compensation for the tremendous social, economic and psychological trauma or the violation of constitutional rights. But meaningful restitution on the part of the U.S. Government is imperative and must include monetary compensation to individuals.

The NCRR urges this Commission to recommend to Congress passage of a direct appropriations bill calling for a minimum of $25,000 for each individual who was uprooted or incarcerated as a result of U.S. government action during World War II.

The figure of $25,000 is to compensate for property losses, which are conservatively estimated at $400 million plus interest and inflation; lost wages and employment and educational opportunities, as well as damages for false imprisonment and compensation for psychological and emotional suffering.

There is ample basis to justify the demand for individual payment. The evacuation process required that Japanese sell or liquidate possessions within a matter of

weeks in most cases. For example, those living on Terminal Island near Los Angeles were given as little as 48 hours notice, and everything was sold at a loss. Refrigerators and washing machines went for $5 a piece. One family was forced to sell 14 acres of farmland for a total of $6,000, which ten years later came to be worth $10,000 to $15,000 per acre.

An Arizona grocery store owner sold his store valued at $15,000 for $888, two days before he had to leave. Such losses were commonplace. The government, through the Federal Reserve Bank and the Farm Security Administration, was supposed to protect the Japanese from these rip-offs. But little or nothing was done. Voluntary storage of personal property by the Federal Reserve Bank would be done only at the sole risk of the owner and they required the owner to sign a statement relieving the bank of any liability. Consequently, few made use of this "service" offered, and it was estimated that 80 percent of the privately stored goods were rifled, stolen or sold during the owners' absence.

The losses and suffering were not only monetary. Many suffered nervous breakdowns, severe depression and illness. The stigma of being "criminal" and "guilty" was reinforced throughout the incarceration. The fact that many Issei and Nisei cannot speak of the camp experience today can be attributed to the deep psychological and emotional impact of the unjust incarceration.

The NCRR also seeks monetary compensation for Japanese who were not incarcerated but had to relocate from the West Coast area to the inland regions. These people were also branded as the enemy and lived anxious lives in order to survive the ordeal of their hostile surroundings. They suffered the stigma of the anti-Japanese propaganda, as did those who were in the camps. Finally, we demand reparations for people of Japanese ancestry taken from Central and South American countries -- Hawaii, the Alaskan Aleuts and all others forced to relocate.

The first generation, Issei, should rightfully be given first priority for payments. At the time of the camps, there were approximately 47,000 Issei whose average age was between 55 and 65. Now, most are late in years and many have already died. There must be a speedy payment process set up.

Secondly, we believe that a just Commission recommendation means restitution to the Japanese American communities in the form of a Japanese Community Fund, appropriated by Congress.

The purpose of this fund shall be to counteract the destruction of the Japanese American communities due to the incarceration. It could fund the development of housing for the Issei, needed services, and cultural and education projects. Following the camps, the Japanese were strongly urged to resettle in the Midwest and East

to avoid returning to the hostile West Coast. Less than half the number of Japanese Americans returned to their former communities. Dispersal of our communities was a direct result of the camps, and later exacerbated by urban renewal.

The community as a whole was pressured by the War Relocation Authority of the U.S. Government to reject anything Japanese and to prove loyalty by accepting incarceration and volunteering for the U.S. Army. The government tried to deny the right of our communities even to exist. For example, even the questionnaires Japanese had to fill out for leave clearance as they left the camps asked, "Will you assist in the general resettlement program by staying away from large groups of Japanese?" or "Will you try to develop such American habits which will cause you to be accepted readily into the American social groups?"

The Japanese American Community Trust Fund should be funded by appropriations from Congress as well as unclaimed or donated individual payments. These funds should be administered by an independent body consisting of a wide range of individuals and organizations who represent the broad spectrum of the Japanese American community. Joint administrative decisions should be made in each respective community, based on local needs. Because of the nature and purpose of the fund, administrative costs should be borne by the U.S. Government.

Thirdly, we believe that a just recommendation from the Commission means doing whatever is necessary to overturn the racist precedent that has justified the incarceration all these years. Test cases such as Hirabayashi v. U.S., Korematsu vs. U.S., and Yasui v. U.S., still remain, providing the legal basis of justification for the concentration camps possibly occurring again.

Some may say the likelihood of the camps happening again is too remote. But during the '60s in the midst of a civil rights movement, there were contingency plans on the part of the government to re-open the camps for black demonstrators. More recently, we were appalled to hear Senator Hayakawa call for the Iranians to be put into camps.

We are also investigating other legal precedents for reparation. For example, there are the Native American claims settlement and class action suits such as the one initiated by the National Council for Japanese American Redress.

Specifically, then, we urge the Commission to declare illegal, invalid and unjust, the Supreme Court cases and recommend that Congress waive the statute of limitations which hinders the ability of Japanese Americans pursuing legal avenues for redress and raparations.

CHAIR BERNSTEIN: Mr. Nakano, your time is up. Would you like to conclude briefly, please?

MR. NAKANO: In conclusion, we wish to address the Commissioners of the contradiction involved in the Congressional Commission. We can't forget that it was the Government along with the help of some political and economic interest groups that put Japanese Americans into camps in the first place. We will expect the Commission, once it has concluded its hearings and completed its investigation and come up with its recommendations, to return to the Japanese American community and get some feedback on its decision prior to bringing it before Congress.

We uphold our right to recommend the degree and form of restitution. As the victims, we indict the U.S. Government for violations of human and constitutional rights, for dispersing our Japanese American communities, for destroying countless lives and homes, and for contributing to economic exploitation, greed and racism.

The time is now for the Commission and Congress to take action. We Japanese Americans demand justice. The time for determining whether a wrong was committed occurred 39 years ago. The time for justice and reparation is now.

Thank you.

CHAIR BERNSTEIN: Sasha, do you plan to make a statement? We're running late. Can you summarize, please?

COMMISSIONER GOLDBERG: Could you state your name?

STATEMENT OF SASHA HOHRI

MS. HOHRI: My name is Sasha Hohri, and I'm representing the Concerned Japanese Americans, which is a member organization of the NCRR, and CJA is a local New York group. Basically what we wanted to present today was a few comments on why we felt the experience of Japanese Americans in New York and on the East Coast in particular, was something we felt the Commission should look into; and why we've also been working for a hearing in the New York area. So I'll just read a little bit about the community and what we feel is important about the east coast area.

COMMISSIONER GOLDBERG: Would that not be served -- you know, we can't go everywhere, you'll forgive me if I ask you that --

MS. HOHRI: No, by all means.

COMMISSIONER GOLDBERG: You recognize that the Commission cannot go everywhere, and the Japanese, as you have said, were afraid to go back to Japan, or California, and therefore settled in various parts of the United States.

So the Commission is faced with the problem with limitations of the budget and so on. Wouldn't it serve the purpose that you have in mind to have a director or a staff member conduct such a hearing?

MS. HOHRI: Yes, I think it would. I would just like to read into the record this very brief statement

which is very general because I think it is important that all the Commissioners have some kind of general understanding.

Part of the history of Japanese Americans in common with other third world people has been the struggle to preserve and maintain our communities, as centers of the cultural, social and political life of our people.

In a racist society the community has been a place where the Japanese can speak their language, develop and pracatice their culture, and raise their children to have a sense of ethnic identity and pride. Because of the existence of Japan towns in California, many Japanese Americans living on the east coast still consider California their home.

Internment, forced dispersal, uprootment, loss of identity, invisibility, isolation, all these feelings have been indelibly stamped upon the sole Japanese Americans on the east coast. This is due to the dispersal of Japanese Americans to the east coast that were forced by history and the camps in particular.

Consciously or unconsciously, Japanese Americans relocated east because it possibly afforded an opportunity to pick up pieces of scattered dreams, ambitions and hopes smashed by the concentration camp experience. Many evacuees relocated to New York, hoping to escape the racist vigiliantism and press directed against them, the discrimination and second-class citizenship that had marked

the experience of Japanese Americans in California.

As expressed by one Nisei, "I wanted to get as far away from California as I could." For others the east coast offered an escape from the unbearable camp conditions, as evacuees desiring resettlement were prohibited from returning to California. For many there was nothing left of their pre-camp life to return to.

The imposed stigma of being Japanese, the implied danger of associating with other Japanese, in essence the denial of roots, history and identity with a conscious policy of the U.S. Government. What was the impact of this policy on the relocated evacuees? "Isolation, I couldn't find things to relate to, it was a deep emotional hurt."

This policy of assimiliationism of 200 percent Americanism has had concrete impact. One example is the loss of identity for Sansei, of growing up unaware of our proud and bitter history; our inability to speak Japanese or to understand and promote Japanese culture; shame, guild and avoidance of other Japanese Americans. These are obstacles Sansei have faced.

The Japanese American success story, so widely promoted and believed, even by us at times, is truly a myth when we cannot be proud of who we are, when our children are still denied the basic educational tools to understand the Japanese American experience, when our culture is suppressed, when an actual physical Japanese

American community for us on the east coast for us seems like a dream.

Justice for the emotional and psychological suffering, the actual losses must be made now. Reparations, individual monetary payments, can begin to make amends for violations of civil and constitutional rights and compensate for material losses but can never repair the traumatic impact of the camps on our lives. A community fund can give us a start to build the Japanese American community again. We have waited too long; we will be quiet no longer.

We call upon the Commission to make these recommendations to Congress. Justice delayed is justice denied.

Thank you.

CHAIR BERNSTEIN: Thank you.

Next, Dr. Tsujimura and Mr. Yasui will divide the time on behalf of the Japanese American Citizens League.

Doctor?

STATEMENT OF DR. JAMES TSUJIMURA

DR. TSUJIMURA: Madam Chairperson, distinguished members of the Commission. My name is James Tsujimura, a former internee at Minidoka Concentration Camp during World War II.

As the National President of the Japanese American Citizens League, I would like to thank the Commission for allowing the JACL to be represented at these hearings.

With your permission, I would like to introduce a few of our current national officers who are presently with us.

First is Mrs. Lily Okura of Washington, D.C., Vice President of General Operations.

Dr. Clifford Uyeda, immediate past national president.

Mr. Pat Okura, President of the Washington, D.C. chapter, and a past national president.

Madam Chairperson, the JACL commends the Commission for conducting an official investigation into the events of 1942, which led to the exclusion of American citizens of Japanese ancestry from the West Coast of the United States and ultimately resulted in the incarceration of over 110,000 persons. Our organization believes that such an investigation is of great importance in addressing the issue of government prerogatives in times of national crises. And that this issue and the Commissions findings, conclusions and recommendations to Congress will therefore have significant value, not only for Japanese Americans, but for all Americans.

At this time, Madam Chairperson, I would like to defer further comment to Mr. Minoru Yasui of Denver, Colorado, defendant in the case of Yasui v. United States, and presently employed as the Executive Director of the Commission on Community Relations for the city and county of Denver.

Mr. Yasui is chairman of JACL's National Committee for Redress and will speak as a representative for the Japanese American Citizens League.

CHAIR BERNSTEIN: Thank you.

STATEMENT OF MINORU YASUI

MR. YASUI: Thank you, Jim, Madam Chairman, Members of the Commission. I am Minoru Yasui of Denver, Colorado. I have already submitted an extensive report in regard to the position of the National Committee for Redress of the Japanese American Citizens League, and I do request that it be made a part of the record.

I will speak rather briefly to recount some of my personal experiences to give you some of my personal feelings. I remember those days of 1942, indeed I was involved in one of the test cases that went to the Supreme Court. You know, back in March, on March 28, 1942, having been thrown into a county jail, in the drunk tank, incidentally, on Monday when I was released on bail, I called my mother because I knew that she would be worried. I said, "Mother, please understand that I'm really trying to do this as an American citizen, that I really want America to be true to its ideals and concepts of liberty." I had worried that my mother would indeed be overwhelmed by anxiety to have a son thrown in the common jail, and my mother told me (in Japanese), "Shimpai dokoro, ka; susumeru zo!" and in English it means, "Worry, nonsense; I encourage you!"

I think I tell this story because I know that among the evacuees who went, the burden fell most heavily upon the mothers, the wives, and indeed I think this Commission should look into that aspect very carefully the kinds of unequal burdens which were imposed upon these kinds of people.

I know that Congressman Danielson spoke about the unequal burdens of preserving liberty, and we are well aware of it; but when we talk about the sacrifices of not just the Japanese Americans, let's be sure that this country indeed lives up to its tradition of liberty and justice.

I can paraphrase Justice Owens Roberts who said, "Look, don't punish a person because of parents as to whom he has no choice, or because of an ancestry from which he cannot resign." This is contrary indeed to the kinds of concepts upon which this nation was founded.

Let me comment to you very briefly, I guess there's some symbolic significance here. My brothers to the left are talking about the activities of the Commission, and I say to you that you have a very important and a very significant role to play; this is the process of democracy. We believe that the kinds of findings that you will make will have a significant impact upon the history of this country.

I can remember 37 years ago, 29 days, I came

out of the county jail in Portland, Oregon with handcuffs on my wrists, with leg shackles on my ankles. I couldn't have been a more miserable specimen of humanity than you could possibly think of. I was an enemy alien according to the decision of the United States District Court, one of the hates minorities. But in this great country of ours, we can see the kinds of errors that were committed in the past. We tried to judge an individual upon individual merit. Nowhere else in this great world of ours is this possible.

I know that this country can rectify its mistakes of the past. The process is slow, the process is painful, but as you go about the country, listen to all of the views that are being expressed. Try to hold those consultations, those investigations, those studies, not merely in the formal hearing process, but assign some of your staff to listen to the people, in the evenings where they are. Indeed this is a responsibility, I believe, that this Commission must assume.

So far as the Japanese American Citizens League is concerned, we have three primary objectives. We would certainly like to have this Commission compile that kind of record that says historically this did happen, we shall determine that it shall never happen again. We want the people to know that this kind of action did take place in 1942; it is with no great degree of pride that we look back, but if we can prevent that thing from happening again,

certainly this Commission will have fulfilled its function.

Secondly, we do believe that restitution must be made. I've seen in the Washington Post talk about this whole episode, and they talk about payments of money as degrading, and I ask of you, if a father, a breadwinner is killed, a suit for wrongful action is filed, the jury returns a verdict of $100,000 -- what is so degrading or useless for a thing such as this?

This is the Anglo American system of law, that where there has been an injustice, certain damages should be claimed. Justice Goldberg has talked about compensation because compensation means payments for. I'm talking about restitution; I talking about restoring people. I'm talking about restoring individuals to their position as best we can, indeed to the positions that they were in 1942. There is no amount of money that can ever repay us for the kinds of things that we underwent. Who is going to give me back nine months of solitary confinement? Who can put a price tag upon that kind of confinement? There is no way that a dollar amount will ever satisfy. But if it is a significant amount, whether it is for the loss of liberty, the deprivation of freedom, for the mental anguish, the frustrations, the bitterness we underwent, at least that will be a valid indication whereby this country makes some degree of restitution.

Finally, again we urge that this Commission look very carefully at the kinds of redress that will

prevent this kind of recurrence. I look at the executive branch of the Government and certainly as Mike Masaoka has pointed out, President Ford in 1976 did make a revocation of Executive Order 9066, and I suppose from an executive standpoint that's about as far as the executive branch of the Government can go. I look at the judicial aspects. Certainly discussing this kind of matter with all the legal minds at this front table, I'm not sure, after all being a country lawyer from the hills of Oregon, but I just --

COMMISSIONER GOLDBERG: That's when you have to look out; when anyone says they're a country lawyer --

CHAIR BERNSTEIN: Watch your wallet!

MR. YASUI: But I do recognize we do have the doctrine of res judicata. I know that back in 1897, Plessy v. Ferguson said that separate can be equal. We know it took 60 years before the United States Supreme Court reversed that kind of thing. I'm not sure we can reverse Korematsu v. United States or Hirabayashi v. United States, because I'm not sure that the country --

COMMISSIONER GOLDBERG: It's my personal conviction, and only personal, that the present Supreme Court -- and I have criticized some of the changes that took place in the Warren court -- unanimously saw that actions by Korematsu were fully unconstitutional. It's a guess, that's all it is. But I cannot conceive that under the modern development of the law, any court of

the United States, would say that the war power justified removal of American citizens by an executive order of the President. I can't conceive that. And that I think is true of the present Court, presently constituted, as well as the Court on which I had the privilege to sit.

MR. YASUI: Well, Justice Goldberg, I certainly do not disagree with you. The problem is, I cannot conceive of another situation where this would arise again. Lord grant that it never happens again.

The legislative remedies, of course, might be one way in which to avert this problem. And I guess from a personal standpoint, and I keep thinking dog-gone it, the Dred Scott decision was handed down by the Supreme Court in 1857, and it took constitutional amendments, the 13th, 14th and 15th amendments of the Constitution of the United States, before we reversed that kind of a thing. And I keep thinking perhaps we should recommend a constitutional amendment saying that the rights of no persons shall be abridged because of parentage or ancestry. That, perhaps too, is a long range dream.

But I did want to comment specifically in regard to the point of dual citizenship, and I know that this has been thrown at us time and time again. We know that we fought at war --

COMMISSIONER GOLDBERG: I asked that question but I want to clarify it. There are about one hundred nations of the world --

MR. YASUI: That is correct.

COMMISSIONER GOLDBERG: We don't recognize that another claim for dual citizenship has any relevance to the constitutional rights of an American.

MR. YASUI: That's right. Well, I can only recall the War of 1812 when the British Navy was seizing American seamen and attempting to make them serve in the British Navy and certainly that is not the law within the United States of America.

I do want to point out that we do have a number of resolutions enacted by various organizations and at this moment I'd like to call forward John Tateishi who was our staff coordinator, and he might indicate the kinds of resolutions that we have to have entered in the record.

CHAIR BERNSTEIN: John, will you identify yourself for the record, please?

STATEMENT OF JOHN TATEISHI

MR. TATEISHI: My name is John Tateishi. I am the staff coordinator for the Japanese American Citizens League and the issue is on the redress matter.

We have received a number of resolutions of support and letters of endorsement from various organizations and cities and counties. Because of the constraint of time, let me just point out that some of the organizations or municipal endorsements include such as the Speaker of the Assembly from the State of California; the Board of

Supervisors, city and county of San Francisco; the Mayor of the City of Los Angeles; Board of Supervisors, County of Los Angeles; and national organizations -- national endorsement from such organizations as the ACLU, League of Women Voters, National Women's Political Caucus, Department of Civil Rights of the AFL-CIO, Anti-Defamation League, American Jewish Committee, the NAACP, The International Board of the Newspaper's Guild, and various other organizations.

We request that these resolutions and letters of endorsement be entered in the record of this Commission.

CHAIR BERNSTEIN: Thank you very much, they will be so entered. Thank you all for your testimony.

I will now proceed with our questioning in the usual order.

Judge Marutani?

COMMISSIONER MARUTANI: Mr. Hohri, I want to recognize your very generous and open offer that the NCJAR will seek to provide assistance to this Commission and to the staff. The goal, the purposes, the need are all very important, at least speaking for myself, and I'm sure on behalf of this Commission, we would most welcome your cooperation and your contributions. Thank you.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: No questions.

CHAIR BERNSTEIN: Justice Goldberg?

COMMISSIONER GOLDBERG: Mr. Hohri, first of all I want to put you at rest about the Commission. I realize you said you opposed the appointment of the Commission; don't feel embarrassed about saying that.

MR. HOHRI: I don't.

COMMISSIONER GOLDBERG: Because I rather, when I got the first letter asking me to serve, opposed the appointment. The facts are pretty well known. I thought to myself why do we need a commission? There are some problems, however, and I think you have flushed them out; maybe you could enlighten me. You have brought some litigation. There are many obstacles to litigation, statute of limitation, prior acts of Congress, etc., about proceeding directly with the courts, sovereign immunity; it must be waived unless it's covered by an existing act of Congress.

I don't want to go into that, but it's for your lawyer to advise you, not for me. But you mentioned again that your philosophy, the best thing if I understood, the court could do would be to kind of open the way to court adjudication of the claims. What court? How is it to be avoided that the individuals involved do not have a substantial chunk -- and I'm very happy I was corrected about the use of the term redress. Ample power for funds are naturally -- and I'm not being critical -- you have to go through a lawyer; he has to be paid.

Can you enlighten me to -- you must have thought a good deal about it -- what court under -- what guideline -- have you thought about that?

MR. HOHRI: No.

COMMISSIONER GOLDBERG: Were this Commission to go that route it's -- by the way it's a very easy route for a commission to kind of escape its responsibility; throw it on someone else. So what court did you have in mind?

MR. HOHRI: I am not a lawyer and not competent to answer that question. What we are trying to do is -- we are trying -- we have, through our experience with the Congress, we have some suspicion of the capability of Congress, either from the standpoint of finance or will, to enact legislation which would provide restitution. We worked very diligently in trying to get Mr. Lowry's bill passed and it was overwhelmingly defeated which indicated to us that the Congress is simply not willing to consider this issue. And so it seemed to us that the alternative, which is also very, very difficult was to seek restitution through the courts. And that's all we're doing and we're just simply asking for your help, and we are certainly willing to help with that.

COMMISSIONER GOLDBERG: Which might require an act of Congress.

MR. HOHRI: That's right.

COMMISSIONER GOLDBERG: To waive the statute.

May I now ask you --

COMMISSIONER BROOKE: Mr. Goldberg, before you leave that, if I may -- I gather that that was your opposition to the legislative effort. Don't you believe now that the Congress has established a commission that the chances now are better for a possible successful legislation?

MR. HOHRI: They are better, I agree with that.

COMMISSIONER BROOKE: And do you see any reason why they can't go on simultaneously to pursue your judicial remedies, such as they are --

MR. HOHRI: I see no conflict at all.

COMMISSIONER BROOKE: That could hopefully result in success of this resolution?

MR. HOHRI: I see no conflict at all.

CHAIR BERNSTEIN: And as you move along, Mr. Hohri, would your organization be interested in following up on Justice Goldberg's suggestion, making more specific types of recommendations to the Commission in writing that --

COMMISSIONER GOLDBERG: After consulting --

MR. HOHRI: Yes.

CHAIR BERNSTEIN: After you have consulted --

MR. HOHRI: Yes.

CHAIR BERNSTEIN: Fine, we would appreciate that.

COMMISSIONER BROOKE: I take it that your opposition will not deter you from cooperating fully with the Commission?

MR. HOHRI: Not at all.

COMMISSIONER BROOKE: Any way that your organization could help?

MR. HOHRI: Not at all.

CHAIR BERNSTEIN: I think that's called pleading in the alternative, isn't it?

COMMISSIONER MITCHELL: Along that line, Madam Chair, I wonder if, in your statement you could recommend a mechanism to enable a fair adjudication of the case. You asked the Commission to write that. Have you written such a mechanism?

MR. HOHRI: Not yet.

COMMISSIONER MITCHELL: Can you write such a mechanism? That is, for the guidance of the Commission?

MR. HOHRI: Yes, we will.

COMMISSIONER GOLDBERG: Mr. Yasui, a suggestion has been made, and a very thoughtful one, that in addition to individual reparation, there be a recommendation that the Japanese community be made an award, a monetary award. And my question therefore is -- and I've been reading the Japanese American press, and I have found that a division of opinion in various publications.

My question is, is there a unified Japanese community to whom an award if the Commission should decide that ought to be done on a communal basis, could be made?

MR. YASUI: My answer is no, to my knowledge, there is no such legal entity to which an award could be

made. Therefore, I have suggested -- and again this is a personal thought -- that the Congress of the United States may create a foundation or quasi-public corporation, such as the Japan American Foundation, from which funds can be thereafter dispersed to various communities, as well as to the individuals.

COMMISSIONER GOLDBERG: Rather than try to bring everybody who is interested in the Japanese Americans?

MR. YASUI: Yes, like a bunch of Irishmen, you know.

COMMISSIONER GOLDBERG: I have to draw on my experience in the Alaskan Claims Settlement; there we were very fortunate that Senator Jackson was the architect, and Father knows about this. There was the Alaskan Native Claims Federation, one organization, but even then it was necessary to split it up between 13 regional corporations when Congress enacted the legislation because there was no common agreement; it should be one so that the award was divided between various groups or clubs, and I could go through the list, but your idea is a public corporation --

MR. YASUI: That is correct.

COMMISSIONER GOLDBERG: -- who then would be empowered to take the award and distribute it in the interest of Japanese Americans.

MR. YASUI: That is correct.

CHAIR BERNSTEIN: Dr. Flemming?

COMMISSIONER FLEMMING: First of all I'd like to say I feel that all of the members of the panel have been very helpful in presenting to us various alternatives that we can keep in mind as we take additional testimony, and various alternatives that I assume that our staff will be exploring for us.

In the second place, I would like to take advantage of this opportunity to say that I'm accustomed to receiving advice from Mr. Yasui. Mr. Yasui, in addition to the other positions that have been identified as being held by him, has been over a period of years the Chairman of the Colorado State Advisory Committee for the U.S. Commission on Civil Rights; and in that capacity he has provided outstanding leadership.

COMMISSIONER GOLDBERG: I thought he was only a country lawyer!

COMMISSIONER FLEMMING: You will note he said country lawyer from Oregon. And as one who had the opportunity of serving as President of the University of Oregon, I can testify to the fact that country lawyers from Oregon really are entitled to great respect, Justice Goldberg. Of course you know another one -- I don't know whether he ever classified himself as a country lawyer or not, but I refer to the former Dean of the law school at the University of Oregon, Wayne Morse.

COMMISSIONER GOLDBERG: And you remember Sam Irwin. He used to open up by saying, "I'm only a country lawyer" and then he would put the knife in.

COMMISSIONER FLEMMING: Well, I just want to say that Mr. Yasui has provided outstanding leadership in dealing with some of the basic civil rights issues that confront our nation at the present time. And I think that leadership is typical of the leadership that the community that he represents has provided in the civil rights field. I know of their deep concern for this indefensible violation of civil rights, but because of that deep concern, my experience has been that the members of the community have constantly been alert to and concerned about other challenges to the concept of civil rights. So I just want to express appreciation to Mr. Yasui for his advice in connection with the responsibility that I share with my colleagues on this Commission. It is comparable to the kind of advice that he and his colleagues in Colorado have been giving the U.S. Commission on Civil Rights.

CHAIR BERNSTEIN: Are there further questions?

COMMISSIONER BROOKE: I have one question. The young lady's name does not appear on my witness list, but I thought she was most helpful in her testimony, and I just want to clear up one point with her.

Is it your opinion that reparations should not be given to individuals but that monetary awards should be given to community groups? Is that my understanding?

MS. HOHRI: I'm a member of the Concerned Japanese Americans which is a local New York group, which has

joined with the national coalition, so as a national group we support the general five principles that Mr. Nakano discussed. So we support the demand for individual monetary payment to individuals, and we also think that it is important community funds be set up that would help rebuild the Japanese communities.

In a lot of places, even where there are Japanese communities in Los Angeles and San Francisco, those communities face continuous, you know, so-called urban redevelopment, which basically destroys the community and sets it up more as a commercial area. A lot of residences and the cultural life of the community are destroyed; so even for places where there are so-called more concentration of Japanese Americans, those kinds of communities, some kind of community fund is necessary.

COMMISSIONER BROOKE: A community fund would be in additional to the individual reparations in your opinion?

MR. HOHRI: Yes.

COMMISSIONER BROOKE: Would you help us by submitting to the Commission -- if I may Madam Chair -- your views as to how this community fund would be established, what community you see or your organization sees as being recipient of these funds, how they would be used?

MR. HOHRI: Yes.

COMMISSIONER BROOKE: I'm sure you have given some thought to that. Could you elaborate on that and

flesh it out; you've given us the skeleton, but if you would flesh it out, it might be very helpful.

MS. HOHRI: We will certainly do that.

COMMISSIONER MITCHELL: Madam Chair.

CHAIR BERNSTEIN: Senator Mitchell.

COMMISSIONER MITCHELL: First I would like to suggest that Dr. Flemming's very moving statement in regard to Mr. Yasui's testimony be applied to all of the members this morning. I certainly think they have enlarged the view of the Commission on getting down to individual situations. I did not quite follow the compensation colloquy between the Justice and Mr. Yasui but in your former statement you asked that the Commission press for a former monetary compensation and I'm wondering whether any of you or anybody has developed an accounting guideline which the Commission can use in our ensuing hearings?

MR. YASUI: Yes, the Japanese American Citizens League at the national convention assembled in Salt Lake City in 1978, looked at the monetary losses as reported by the Federal Reserve Bank in 1942. This figure was indicated to be $400 million. We know that in 1949 to 1952, under the Evacuation Claims Act, approximately $38 million was paid; that then leaves a balance of $362 million and if you apply an inflation factor, this becomes a horrendous sum, something like 3 and one-half or 4 billion dollars. But whatever that sum may be, the mistake of the organization in my opinion at that time

was to set a specific dollar amount. That dollar amount was set at $25,000, per person and I say to you today, that's not enough.

I am concerned that this Commission examine indeed the actual financial losses, the loss of wages, the loss of anticipated profits, the dollar amount of deprivation of liberty; and again we come to a very great amount. I think your function is to examine the facts, and follow where those facts may lead, that that is the recommendation to be made.

I am not so sanguine to believe that the Congress of the United States is going to appropriate 4 and one-half or 6 and one-half billion dollars, I do not know. But I think it is your responsibility to say this indeed is the loss that occurred, and therefore you recommend that the Congress consider a direct appropriation for the Japanese American community in the United States.

COMMISSIONER MITCHELL: But how does the Commission reach that conclusion? What are the accounting principles we should follow?

MR. YASUI: There is no question that studies have begun certainly in Sacramento. I believe Sandra Taylor at the University of Utah has been commissioned under a grant to begin to examine the actual financial bases.

Number 1, you should look at the property loss, and indeed I think that is the insignificant portion of

the actual losses. We need to look at precedents so far as all damages considered in concerned. And I can recall during the Viet Nam protests, when they threw a number of people into the Washington, D.C. Stadium and kept them for three days, 72 hours, an award was made of $10,000 or $15,000 for each individual.

Now, when you compare that to the 4 1/2 years that people were incarcerated, then I think that you -- you must come up with some figure that is equitable, that is just.

COMMISSIONER GOLDBERG: Mr. Yasui, what mechanism -- see, assuming this Commission were commissioned, now we're not the legislature. Assuming we make a recommendation, what mechanisms, or have you thought about it, would execute. Congress would have to adopt legislation, as you have said. What mechanism in your view and what guidelines would execute that?

MR. YASUI: Well, again, going back to the determination of the amount, we can certainly look at the actual physical losses; we certainly need to look at the non-physical losses -- and you go to actual tables in regard to the individuals who lost four years of their life -- I do not know how you would measure the lost opportunities, and how you would ever place a monetary value.

I do not know how you would actually compute the pain and suffering and the agony that people underwent;

but some arbitrary amount should certainly be established. Once having determined that amount, it is my suggestion that the Congress of the United States authorize and appropriate a sufficient sum of money to be given to a public corporation, or a public foundation and define the guidelines whereby individuals and collective bodies may be paid.

COMMISSIONER GOLDBERG: In other words, that public, if I understand you correctly -- and this is very important for the Commission, it cannot review each individual --

MR. YASUI: That would be impossible.

COMMISSIONER GOLDBERG: Or it can hear and wants to hear as many individuals as we can hear.

MR. YASUI: That is correct.

COMMISSIONER GOLDBERG: So your concept -- correct me if I'm wrong -- is that there be created an agency which is funded by an appropriation of the best estimate we can come to as to the total injury.

MR. YASUI: That is correct.

COMMISSIONER GOLDBERG: And that that public corporation be empowered to make allocation to individuals for regress. Do I understand you correctly?

MR. YASUI: That basically is correct; and I would point out again that the Congress may certainly make payments for moral obligations, and not strictly legal damages. And this is why I'm so careful, again as a country lawyer, not very sophisticated and --

COMMISSIONER GOLDBERG: Well, I read the claims act or whatever it was, and I thought it was a very restrictive and poorly drafted act, contrary to the rules of the war that you and I are familiar with. So the guidelines should be prescribed by Congress.

MR. YASUI: That is correct.

COMMISSIONER GOLDBERG: And the guidelines should apply when the injury is done to a person.

MR. YASUI: That is correct. But to try to prove the individual elements of damages 38 years later with documentary evidence, in my humble opinion, is impossible. We were give 24 hours to vacate certain areas, and we did not bring the documents; the documents are lost or gone or destroyed. Therefore I go back to the obligation of the Congress of the United States to enact appropriations based upon certainly a legal as well as a moral obligation.

CHAIR BERNSTEIN: I would like to recognize my co-chair, if I might.

COMMISSIONER LUNGREN: I would just like to ask one question. I presume that you're a country doctor from Portland.

DR. TSUJIMURA: That's right.

COMMISSIONER MITCHELL: Do you think the Portland people who testify, will be able to lead the Commission as to the losses in the Portland area? What does Earnestine Sui say the redress in the form of monetary compensation should be?

DR. TSUJIMURA: Of course we would try to assist the Commission as much as we can. We will attempt to come up with findings, but it is very, very difficult.

COMMISSIONER MITCHELL: That's the difficulty I've been trying to get somebody to take on except the Commission.

DR. TSUJIMURA: If I may, Madam Chair --

CHAIR BERNSTEIN: Certainly.

DR. TSUJIMURA: Senator Mitchell, the JACL is at this time gathering information to provide to the Commission at a later date, studies which will indicate, we hope quite specifically on property losses, loss of income, and other kinds of monetary damages that were incurred by the Japanese American community.

One of the most difficult things that we've had to deal with in gathering information is to make that assessment. As Mr. Yasui pointed out, documents are not available, or are very very few, and it's a very lengthy and costly process; and I would suggest that that is perhaps one area that the Commission can examine.

CHAIR BERNSTEIN: I'd like to just recognize that our co-chair, Congressman Lungren has been able to join us after a very busy morning on the floor.

Dan, would you like to say anything or ask a question?

VICE CHAIR LUNGREN: Well, I'm afraid to ask a question since all the questioning seems to have taken place.

But let me just pose one thing and I'll do it to the whole panel. I apologize for not having been here for the testimony, but every time I started to leave there's a vote, or every time they promise me "you're vote is not going to take place," it does, and when I stay and wait for a vote it does not occur. So it's sort of a guessing game here. And my beeper hasn't gone off.

But based on my review of the printed statements and some of the answers to questions here, I get the feeling that the members of the panel feel that unless there is monetary redress this Commission serves no purpose, and that the historical review, an official report, and perhaps an official apology is meaningless without a monetary redress.

I would like to ask if I'm misinformed in that impression or is that the general feeling of the panel?

MR. YASUI: That is not precisely correct. It is true that we need to establish a historical record, and it is true that we would like to have the people of America recognize and realize these things, but we think it is also an integral part of the process of this Commission that a substantial monetary redress be recommended. It is a part of and not exclusive. Neither one are mutually exclusive in my opinion.

VICE CHAIR LUNGREN: My question is more refined than that, and that is, do you think that we serve no purpose and there is nothing to be gained if, in fact, the

Commission would not recommend economic redress, but rather would create an official historical record and acknowledge and recognize what the government did, and hopefully establish some guidelines for the future that might avoid that?

That is my point. I'm trying to find out whether you think that type of an approach without monetary back-up is meaningless?

MR. YASUI: It is not meaningless, it is very significant. But you will have failed to fulfill your full obligations and responsibilities in my humble opinion.

VICE CHAIR LUNGREN: Does the staff have other comments on that?

MR. HOHRI: We would certainly -- we think that it is very important -- I think the principle that we feel is at stake is that we are citizens of this country, we are covered by the constitutional laws of this country, and it seems to me that normal citizens have the right to seek restitution for denial of these rights from their government when this occurs. And I think -- and we are attempting to seek restitution from the courts, but we need your help; and so the question that we pose to you is whether you are willing to allow us to have access to the courts so that we can let the court adjudicate and determine whether our claim is just.

VICE CHAIR LUNGREN: I just have to confess to you that there is certainly not a body of support in the

Congress for financial redress; I think that's fairly obvious, and I sometimes wonder if our Commission deliberations in an attempt to create the record, one of the reasons I voted for it -- the creation of this Commission -- is that a lot of people my age, and around my age, have no awareness whatsoever that this occurred. And I think it is fundamentally important that we create a record and try to create something that hopefully will allow us to take stock before we would ever attempt to think about this in the future.

But I sometimes wonder, we made some terrible decisions in the past, the Dred Scott decision by the United States Supreme Court is probably the worst single decision I can think of that the Constitution ever made. Yet we didn't go back and say because there was in effect, the United States Government in support of slavery, therefore reparations were paid by the Federal Government because it allowed this institution to occur. And that was the greatest deprivation of rights I can think this country could ever do to any single individual or group of individuals.

COMMISSIONER BROOKE: That may be a good idea!

VICE CHAIR LUNGREN: But I would just like to be assured that what we do here is not without merit if in fact no monetary reparations are going to come forth, because I don't want to sit here and fool you as a panel and suggest to you that there are votes in Congress to

do that or the mood of the country is that that should be done.

One of the interesting things about being on this Commission is to be accused of being a right-winger and a left-winger at the same time, and for not supporting monetary redress in being a right-winger. I just wanted to make sure that you didn't feel that we would just be going in circles and achieve no purpose if, in fact, the recommendation was that for various reasons monetary redress would not be appropriate.

MR. YASUI: Congressman, I think you have to examine your own good conscience, where do the facts lead you? And I suggest to you under the Constitution there is such a thing as deprivation of property without due process of law; and it is your conclusions that will lead you to the fact that there is no monetary redress necessary under the facts, so be it; and we'll oppose it, obviously. But I think there is no question that among the masses of evacuees who are now surviving, they suffered financial losses, and so be it that the recommendation has to be made to Congress, and whether it takes five years or ten years, or one hundred years, I think we need to say this is what happened.

CHAIR BERNSTEIN: Thank you very much.

We have now substantially exceeded the federal guidelines for bathroom breaks for court reporters. We will stand in a 5-minute recess.

(Short recess was taken)

CHAIR BERNSTEIN: Will the Commission and its guests please reconvene?

We had invited and expected a panel representing the Aleutian-Pribilof Island Association, which is a regional nonprofit arm of the Aleutian Corporation. Unfortunately, that representative was unable to be with us today, and has asked Father Gromoff, who is a member of the Commission and from the Aleutian Islands, to present their statements. Father Gromoff has graciously agreed to do so.

Father?

COMMISSIONER GROMOFF: Thank you, Madam Chairman.

Madam Chairman, and my fellow Commissioners, ladies and gentlemen, and my other American citizens:

STATEMENT OF ALFRED STEPETIN

I was 14 years of age when I was taken from my home at Unalaska, on July 30, 1942. We were given only two days' notice and we were told we could only take one suitcase of clothes with us. We were not allowed to take any personal belongings such as household furniture or guns, fishing gear or any native handcrafts we may have had. I had been an orphan only a month, so I was to stay with my younger sister who had been adopted when she was small. My two older sisters had gone to a cannery at False Pass, Alaska for the summer and I didn't know if I would see them again. My sister, Fanny, the oldest, 20 years of age was my legal guardian but she was neither told or notified that I was going. She and my sister, Vera, 17, did join us at Burnett later in the year.

All Aleuts in Unalaska were evacuated at the same time. However, all the Caucasians living at Unalaska were not told they had to go or did they leave. Two families, the Hopes and the Mollers, were separated from their fathers because the wives were Aleuts and the husbands Caucasians. No one other than the Caucasians were given a choice of remaining at Unalaska.

Not at any time were we told where we were going or how long we would be gone. Everyone seemed to be just in a hurry to get us out of Unalaska.

After two weeks of traveling on the S.S. Alaska, a commercial steamship, with the women and children in state rooms and the men and boys in the hold of the ship, I was placed in the hold and we were not permitted to go in the first class section. Husbands and wives were separated during this whole trip.

A couple of days out of Unalaska, a newborn baby of Constantine and Helen Lekanot died aboard ship. The ship docked at Port Baider on Kodiak Island and a group of men were allowed to go ashore and bury the baby without the rites of a funeral.

On arrival at Wrangell we were taken to a BIA school, Wrangell Institute, and again housed separately from our families. Men and women that is.

After one week we were taken to an old cannery at Burnett Inlet and all 180 of us were placed in an old two-story bunkhouse. There was no running water, lights or

heat, only the cooking range in the kitchen. Meals were fed camp style to all of us. There was one toilet "outhouse" for the group and no bath facilities were available.

After a few days when the men had fixed up the cabins at the cannery, families were assigned a cabin. There were eight cabins to be occupied. The largest families were assigned cabins. The rest had to live at the bunkhouse which had nine rooms, 15 x 12 feet on the top floor, and six rooms on the first floor. I stayed with my sister and her foster mother in one of the rooms and shared it with a married couple.

Later on the men built a school and apartment complex for the BIA teachers, Mrs. Edith Long and her husband Elmer and daughter Dorothy. The school was for grades 1-6. The 7th and 8th graders were sent to Wrangell Institute which was 90 sea miles from the camp.

All the cabins were small and crowded, sometimes 12 to 15 people shared these cabins, the largest one room cabin was 20 by 30 and was shared by 15 people.

Food was issued weekly in amounts to members of household. No fresh foods were issued. If we wanted any we had to purchased them in Wrangell and have them shipped.

All homes were wood stove heated and only one water faucet was provided for the eight cabins.

I went to Wrangell Institute and did not return to Unalaska when they returned. I never again saw my home as it had been torn down by the time I returned in 1957.

I, Alfred Stepetin, make this statement to the best of my knowledge of how we were evacuated from Unalaska.

Signed, Alfred Stepetin

July 11, 1981

And then here is the second statement by Phil M. Tutiakoff dated July 11, 1981.

STATEMENT OF PHIL M. TUTIAKOFF

The concerns of the Aleuts are easily understood by us and others who learned from viable sources of our World War II experience; unfortunately they constitute a minority. Be that as it may, certain proven facts cannot be ignored.

Firstly, our constitutional rights were taken away in a very unseemly manner. That this was done by our own country's government compounds that unforgiveable act.

Secondly, why were only the Aleuts singled out? We committed no overt or covert acts to justify the authorities' entire treatment of us at that time, nor at any time of our existence.

Thirdly, the treatment we received from environs of two separate U.S. federal agencies was grossly impersonal and would allude to the impression that we were incapable of any ordinary human functions.

Fourthly, and equally important as the foregoing, is that the Aleut culture was halted for two and one-half years. That a people's lifestyle ceased to exist through

no fault of their own is an old part of the American history but certainly does nothing to distract from the vileness therein when one considers the date in the history of the U.S. One cannot appreciate as deeply nor honestly relate to this situation unless one has lived the experience.

The Aleuts in Unalaska had been advised by the U.S. military that they may have to be evacuated, after they encircled our village with barbed wire and martial law was declared. Unalaska and Amakanak Islands were the hub of military activity in the Aleutians. We sustained three bombing raids before we were forced to leave our homes. The tides of war in the chair went in favor of the United States after that. Except for the Attu Island, no enemy action affected our home islands. Had we known the manner in which our evacuation, stay from home and the losses we incurred and found in our home upon our return, no Aleut would have agreed to the idea of evacuation.

The Attuans watched their chief and male caucasian school teacher shot and killed on the beach in front of their village. They watched their village destroyed without a trace by the enemy and later were transported to a prisoner of war camp in another country. To add insult to injury, they were not returned to their home islands, but were forced by the U.S. authorities to encroach upon the traditional domain of the Atkans. Each group suffered a culture crash due to the differences in the language. Subsequently, efforts by the Attuans to return to their home island were thwarted by the U.S. authorities and/or U.S. military.

The Atkans' introduction to the national emergency was seeing the U.S. naval personnel with amphibious aircraft establish themselves on Atka. Those planes were destroyed by enemy action and prior to their removal from their home island they had to stand, uncomprehending and helpless while U.S. military personnel destroyed their villages except for two homes.

The Pribilovians from St. Paul and St. George with other Aleuts and Atka, Nilolsski, Unalaska and Akutan were given 24-hour notice before they were taken away from their own safety.

We submit that the subsequent treatment we received, the inestimable loss of personal pride, property, our future growth as an integral part of the society of the United States of America cannot be fully measured or expressed. One facet of our overall loss is the horrendous psychological damage incurred which naturally was transferred to our heirs. Considering the Aleuts who have passed away since, the total is incalculable. The ultimate effect is detrimental to our peace of mind.

To learn that our stay in Southeastern Alaska could have been shortened but wasn't, simply because the U.S. military did not want to construct facilities to house their people so the use of our homes could continue, convinces us not to turn the other cheek.

Lengthening the time we had to live with the daily inadequacies in a foreign environment so as to allow

total strangers to use our homes or because of our presence would detract from the military activities taking place in a theatre of the war where the Continental United States was not endangered is exceedingly difficult to accept.

After being forced to leave our homes, forced to exist in a subhuman atmosphere, our return to our homes was indelibly marred when we found the irreparable damage done to our communities and homes in our absence by our fellow citizens was the ultimate in the long list of human indignities we had to sustain.

The Aleut trait of being obedient to authority was, in this case, very unfortunate.

That the same government has seen fit to seek fair reparation will be difficult to reconcile by the overlying fact that man is a creature of habit and habits die hard.

We will cooperate to the best of our ability to right a wrong, assist future citizens so they do not suffer as we did, and hope the history books in our schools reflect a factual account of the Japanese and Aleut World War II experience.

Thank you.

Signed: Phil M. Tutiakoff

Chairman, Aleutian/Pribilof

Island Corporation

CHAIR BERNSTEIN: Would the Commission like to ask questions of Father Gromoff?

We will be, of course, in Alaska September 15th, 17th and 19th at Anchorage and the Aleutian Islands and then Alaska and the Pribilof Islands as well.

COMMISSIONER GOLDBERG: I have no questions but I would like to read a statement and make a short comment. In the middle of the Civil War era, the Supreme Court of the United States upset a decision of probably our greatest President, Abraham Lincoln, who tried to deal with people while courts were functioning and put them in preventive detention similar to what the Aleuts were in effect done and the Japanese, and the statement is this. The Ex parte Milligan; the Supreme Court decision that reversed Abraham Lincoln. I'll read, "The Constitution of the United States is a law for rulers and the people, equally in war and in peace; and it covers with the shield of this protection all classes of man at all times and under all circumstances." And I really want to make the comment, I've heard the statement, I've read about what happened to the Aleuts, and in my view, that decision was completely ignored under the guise of wartime necessity. William Pitt I, once said that the invocation of necessity is the tool of tyrants. I don't accuse our military of being tyrants, they had a war on their hands, but they acted around it.

CHAIR BERNSTEIN: Are there other comments or questions from other members of the Commission?

Thank you very much, Father. We have one remaining panel to present their views this morning before the lunch break.

Four organizations of lawyers, legal organizations, are at the witness table. The first is the Bay Area Attorneys for Redress, which is a group of attorneys, law students and volunteers in the San Francisco Bay area, who were formed in the fall of 1980 to present arguments on the illegality of the evacuation and relocation of Japanese Americans of this Commission. Representing the Bay Area Attorneys for Redress is Mr. Dennis Hayashi.

Secondly, the second organization is the Asian American Legal Defense and Education Fund, Mr. Stanley Mark representing that group, which is a nonprofit legal organization, which began in 1976 in New York. You all can describe more fully your organizations if you wish.

Third, the California State Bar Association, which is represented by Ms. Lori Suzuki and by Dean Ito Taylor.

And the fourth group is the Asian Pacific American Bar Association, and representing the Asian Pacific American Bar Association, which is an incorporated professional legal association, District of Columbia, representing and advocating the interest of its member lawyers in the Asian Pacific American community. And those represented are Margaret Chao, Ronald Ikejiri, and in the center is Floyd Shimoura.

I have asked you -- I know you all have prepared statements, and we will of course welcome them into the record. I would ask, so that we can have enough time for discussion among the Commissioners and yourselves, that you summarize as briefly as possible. I know you've all been taught in law school how to summarize.

Shall we begin with you, Dennis, please.

STATEMENT OF DENNIS HAYASHI

MR. HAYASHI: Thank you, Madam Chairperson.

Madam Chairperson and Members of the Commission, my name is Dennis Hayashi, and I am an attorney with the Asian Law Caucus, Inc., in Oakland, California. I am speaking before you today as a representative of Bay Area Attorneys for Redress, a group of attorneys and law students from Northern California.

For the past eight months we have researched what we feel to be the major constitutional violations arising from the internment experience. We have documented our work in a brief which we have submitted to you and which I wish to incorporate into the record.

Before substantially discussing the constitutional issues, however, I would preliminarily like to make several comments about our work. First, I wish to point out that we do not offer our research as an exhaustive conclusive statement of the law with regard to the camps. Our research is designed primarily to define the constitutional issues raised by the camp experience and the general scope of any violations.

Second, although there have been a number of legal comments on the incarcerations, we feel that it is important to re-examine and consolidate the constitutional issues for this Commission, because the Supreme Court decision's implicitly validating such exclusions and detentions have never been overruled.

And thirdly --

COMMISSIONER GOLDBERG: Expressly overruled.

MR. HAYASHI: Expressly overruled, I stand corrected.

Thirdly, we wish to emphasize that the expulsion and detention of Japanese Americans was above all a violation of human and democratic rights, and not simply legal rights. The legal system must share in any criticism of the government and military for the perpetration of one of America's greatest acts of injustice.

It is also initially important to understand that the incarceration was not an isolated instance of legally sanctioned discrimination against Japanese Americans. A cursory review of Japanese American history will show that prior to the war discrimination against Japanese Americans was institutionalized in the law, prohibiting Japanese Americans from owning land, from obtaining citizenship, from holding certain occupations, and from freely immigrating.

From the Gentleman's Agreement of 1907 and the Exclusion Act of 1924, through the great number of

legislative acts and the United States Supreme Court cases prohibiting the Japanese from owning land, Japanese Americans faced discrimination, which culminated in their exclusion and internment during World War II.

Probably the most obvious violation of the Constitution was the denial of equal protection of the law. Equality under the law is a fundamental right. Where the government, through its laws or actions, provides different treatment to different categories of persons, it must justify the rationality of drawing such distinctions.

However, where the government classifies persons on the basis of race or alienage, such laws must meet a strict scrutiny test and serve a compelling state interest with no less restrictive alternatives. As the Supreme Court itself has stated in the Korematsu decision, "All restrictions which curtail the civil rights of a single group are immediately suspect."

The curfew, exclusion and incarceration of Japanese Americans truly singled them out for different treatment by government and military authorities. Japanese Americans were wholly segregated from the rest of the country and denied their constitutional rights solely on the basis of race. They were also treated differently from German and Italian Americans, who were not excluded and detained en mass, and were given individual hearings on their cases.

Intent to racially discriminate against the Japanese was boldly evident in General DeWitt's statement

accepted as proof by the court.

CHAIR BERNSTEIN: We will run out of time if we don't distribute fairly among four groups.

MR. HAYASHI: Fine, I'll proceed then and merely summarize the statement that I have prepared.

I will assert --

COMMISSIONER GOLDBERG: Which law school did you graduate from, may I ask?

MR. HAYASHI: Hastings.

COMMISSIONER GOLDBERG: That's where I teach! It's great!

CHAIR BERNSTEIN: I think what he said is that you got an "A."

I would like to allow enough time for your colleagues also to participate, and we are very, very late; so if you would take just one more second so that we can move along, we would appreciate it.

MR. HAYASHI: I would merely like to state to the Commission that all my prepared statement and further elaboration is included in our brief, and I would ask that you take cognizance of that particular brief.

I would only like to say one final point, and that is that what we were trying to raise through our brief on the constitutional issues was merely that the magnitude of these violations justifies some type of reparation be made to those who were incarcerated during the war. And because of the scope of the injustices

that the government should not worry about other enemy aliens, but should be concerned about Japanese Americans until they are, quote "wiped off the map." Also, the Attorney General noted to Franklin D. Roosevelt that Executive Order 9066 was enacted only against the Japanese, and was not intended to apply to Germans and Italians.

Yet the Supreme Court stated that, "Korematsu was not excluded from the military area because of hostility to him or his race." The Government asserted military necessity as its compelling state interest for such discrimination.

I will review some of the factual basis asserted by the Government for its claim in a few moments. Less restrictive alternatives were available to the government in order to protect against espionage and sabotage. Individual hearings could have been provided for suspected Japanese Americans as were set up for non-Japanese enemy aliens in this country and in Great Britain during the war. Increased security in sensitive areas could have been provided.

The conclusion is inescapable, that the exclusion and the detention of Japanese Americans violated their right to equal treatment under the law.

The Fifth Amendment to the United States Constitution guarantees that no person shall be "deprived of life, liberty or property without due process of law." There are two aspects of this due process clause: procedural and substantive.

Procedural due process requires a fair decision-making process before the Government takes action impairing a person's life, liberty or property. Fundamental to such a fair process is that notice of charges and an opportunity to be heard be given. Japanese Americans were given neither reasons for their incarceration nor an opportunity to respond to government allegations of sabotage and espionage.

Substantive due process protects individuals against governmental actions which place arbitrary limitations on the freedom of action. Where government action affects a fundamental right or involves racial discrimination, courts will subject such an action to strict scrutiny to determine whether the government interest in such actions is compelling and whether any less restrictive alternative again exists.

In Korematsu and Hirabayashi, the Supreme Court stated that the government had a compelling state interest to exclude Japanese Americans from the Coast because of the wartime necessity and grave imminent danger posed by the Japanese presence.

This Commission has the opportunity and responsibility to seek out the truth behind the Government's claim that its military interests were compelling and that less restrictive alternatives did not exist.

However, I would like to take a few moments to highlight some of the facts proffered by the Government and

committed 40 years ago, we would respectfully submit to this Commission, that you recommend to Congress that these reparations be made and that we also request that you note that the acts and orders of the President and Congress and decisions of the United States Supreme Court, upholding those acts and orders were incorrect and should never be used as precedence with any other group.

CHAIR BERNSTEIN: Thank you.

Mr. Mark, would you proceed, and again, I urge you to summarize your testimony.

MR. MARK: Yes, I'll finish it within seven minutes.

CHAIR BERNSTEIN: Thank you. Now there's a man who sets a goal for himself; I like that.

STATEMENT OF STANLEY MARK

MR. MARK: My name is Stan Mark, and I'm a staff attorney with the Asian American Legal Defense and Education Fund.

I would like to thank the Commission for the opportunity to present our position today.

Our office supports redress for the over 120,000 Japanese Americans who were incarcerated in concentration camps during World War II because of their race and national origin. This deprivation of fundamental constitutional rights by all branches of the United States government was blatantly racist and economically motivated. It must never be allowed to occur again.

We advocate affirmative measures both to redress the wrongs suffered by Japanese Americans in the 1940's, and to deter such acts in the future. To accomplish these goals, our office supports direct monetary payments to all Japanese Americans who were interned, despite the fact that their personal and real property losses can never be fully compensated. Moreover, we support other actions designed to educate Americans about this historic injustice and to prevent future government abridgements of individual rights.

Our position paper will focus upon some lesser known legal theories, such as the 13th Amendment, and also explore possible legal basis for monetary reparations to individual Japanese Americans. In my testimony today, I will merely highlight some of the legal theories to support redress. A more complete statement and analysis of the legal issues will be submitted to the Commission at a later date.

In the spirit of cooperation and to avoid duplication of efforts, our office supports and endorses the legal theories set forth by the Bay Area Attorneys for Redress. We urge the Commission to examine closely all the legal theories presented to it, and to recommend that Congress enact legislation either to award direct monetary payments to persons damaged by the incarceration or, alternatively, to remove existing procedural legal barriers, thereby enabling individual Japanese Americans

to pursue appropriate remedies in the federal courts.

To place the incarceration of Japanese Americans in an historical perspective, a brief summary of the legal history of Japanese Americans will be presented at the outset.

I'm not going to go into too much detail about that, I think a lot of the other people who testified today covered discriminatory measures taken against Japanese Americans, so I'm going to proceed with the 13th Amendment theory.

The en masse incarceration of Japanese Americans is usually viewed and analyzed as a deprivation of constitutional rights based on due process violations. It can and should be viewed as a violation of the 13th Amendment, a post-Civil War amendment that is more popularly associated with the abolition of slavery in the South. Justice Miller stated for the majority of the Supreme Court in the Slaughterhouse Cases: "We do not say that no one else but the Negro can share in this protection. Both language and the spirit of these Articles are to have their fair and just weight in any question of construction. Undoubtedly, while Negro slavery alone was in the mind of the Congress that proposed the 13th Amendment, it forbids any other kind of slavery, now or hereinafter. If Mexican peonage or the Chinese coolie labor system shall develop slavery of the Mexican or Chinese race within our territory, this Amendment may

safely be trusted to make it void."

The 13th Amendment condemns the subjugation of all races and forbids not only the literal institution of slavery, but also all "badges and incidents" associated with the system of slavery that stigmatizes a people as inferior. This stigma of inferiority persists even when the physical subjugation ceases.

The United States Government forcibly removed over 120,000 Japanese Americans -- 70,000 of whom were U.S. citizens -- from their homes and herded them into concentration camps. Although not convicted of any crimes, those incarcerated were not free to leave the camps or to conduct their lives as free people with the same rights and privileges accorded to all persons under our Constitution. Their incarceration and the unequal treatment afforded them constituted a form of slavery or involuntary servitude prohibited by the 13th Amendment.

Although the physical confinement and the involuntary servitude has ceased, the "badges and incidents" of slavery arising from the incarceration continue as a stigma of inferiority because they remain unremedied to this date.

In Jones v. Mayer, a 1968 Supreme Court case interpreting the reach of the 13th Amendment, the court held that if the right to buy or sell property turned upon the color of a person's skin, this constituted a badge and incident of slavery prohibited by the 13th

Amendment. The Court went further to state: "Surely Congress has the power under the 13th Amendment rationally to determine what are the badges and the incidents of slavery, and the authority to translate that determination into effective legislation. . .and when racial discrimination herds men into ghettos and makes their ability to buy property turn on the color of their skin, then it is relic of slavery."

The holding of Jones v. Mayer is of special relevance to an analysis of the incarceration, since the government interfered with the property and contract rights of Japanese Americans during World War II. Japanese Americans who were detained without criminal convictions were stigmatized as inferior to a variety of ways. They were denied temporary leave to manage their private property. They were prohibited from establishing "evacuee-sponsored production enterprises," that was a phrase quoted from Dillon Myer, and in effect, were barred from fully exercising their contract rights. Furthermore, they were paid less than the prevailing wages for government and privately-sponsored employment.

With respect to this latter point, it should be noted that the Geneva Convention governing the treatment of prisoners of war required that those incarcerated should be paid for their labor "in accordance with the rates in force for soldiers of the national army." Historians have documented that the wage scale of

Japanese American internees ranged from $12 to $16 per month, while U.S. military wages ranged from $21 to $50 a month, including liberal fringe benefits.

Similarly, private employers frequently requested Japanese Americans as laborers, paying them unconscionably low salaries. For example, as one Congressional report indicated, one farmer had been paying $1.80 per 100 pounds of crops harvested, but indicated he would pay the "going wage" to the Japanese internees -- "probably 45 cents per hour."

CHAIR BERNSTEIN: Mr. Mark, you have two minutes left.

MR. MARK: While Japanese Americans were never formally accorded the status of prisoners of war, the U.S. Government nevertheless had agreed to apply the standards of the Geneva Agreement to Japanese Americans incarcerated in the camps.

These violations of rights of Japanese Americans constituted badges and incidents of slavery that remain unremedied to this date. Despite their achievements, Japanese Americans continue to live under the stigma of inferiority and have yet to achieve equality with their white counterparts in all aspects of American life. The source of that is the "Success of Asian Americans, Fact or Fiction," produced by the U.S. Civil Rights Commission. Dr. Flemming is very familiar with that document.

Since Congress is empowered to define and abolish such badges, we urge the Commission to recommend that Congress define the incarceration of Japanese Americans and those violations arising from the incarceration as badges and incidents of slavery and legislate an appropriate remedy to abolish them.

I'd like to just make a few comments about some of the other precedents that could support Congressional authority to legislate a sufficient body of law to compensate Japanese Americans incarcerated --

COMMISSIONER GOLDBERG: I think we can assume as is evident that it is within the power of Congress to adopt remedial legislation, I don't think you have to prove that. Congress has clean area authority to do that, and has done it on the Alaska Native Claims, has done it in innumerable instances; so if you will forgive me --

MR. MARK: Sure.

COMMISSIONER GOLDBERG: -- I think you can take it for granted the members of the Commission are in agreement.

MR. MARK: Also, international precedent has also recognized the obligation of a moral debt.

COMMISSIONER GOLDBERG: That is true.

MR. MARK: And just to make a comment about that, the Federal Republic of Germany has had, in effect for the last 25 or 30 years, federal compensation laws, and to this date their economy has not been ruined by

them. Over a billion dollars has been paid out on compensation and there should be --

COMMISSIONER GOLDBERG: On the Holocaust.

MR. MARK: There is a possibility of using their statutes as models for monetary relief.

CHAIR BERNSTEIN: Thank you, Mr. Mark.

I would like to divide the time now between the remaining two groups, and I would urge you again to summarize so that the Commission will have an opportunity to talk with you.

Dean Ito Taylor?

STATEMENT OF DEAN ITO TAYLOR

MR. TAYLOR: Thank you, Madam Chair, Members of the Commission, and Commission staff, who I might add have been extremely cordial and helpful to us.

My name is Dean Ito Taylor; to my right is Lori Suzuki, and we are representing the Subcommittee on Japanese American Redress Project of the Legal Services Section of the State Bar of California.

In this capacity we will submit the following summary of our written report which I hope you have on the need and propriety of Congressional action to remedy the wrongs suffered by persons of Japanese ancestry and such others as were subject to the war affected by the exclusion and incarceration.

I might add that our remarks are on behalf of the Subcommittee on Japanese American Redress Project and

do not necessarily represent the State Bar's Board of Governors.

We will be continuing to research in this area and we'll be happy to assist the Commission in any way possible.

Today, compensation for the losses caused by the evacuation and incarceration has been severely inadequate as numerous witnesses have testified to.

In addition, the result and psychological injuries, constitutional violations, personal injuries, destruction of ethnic communities, cultural, family and religious damages have yet to be accurately measured, adequately considered nor have reparations been made.

The power is vested in Congress and Justice Goldberg has mentioned to symbolically remedy such losses and injuries, for which no true adequate compensation exists. Although agreeing with Senator Jackson, as he stated earlier that a dollar amount cannot be fairly placed, yet we feel that not simply an apology is adequate, a strong, perhaps even politically unpopular gesture is required.

Two means of Congressional action not exclusive of each other will be presented. One, legislation for direct appropriations granting adequate compensation to remedy the limitations and failures of the American Japanese Claims Act of 1948; and 2) enabling legislation for the waiver of procedural barriers to their detriment,

adjudication of claims for damages which Ms. Suzuki will discuss briefly.

The continued need for growth -- or for Congressional action to realize just compensation is based upon the existence of a variety of potential causes of action for damages now blocked by procedural barriers. Coupled with the inadequacies of the Claims Act mentioned, potential causes of action exist in both Corps and Constitutional Court theories.

Few actions were brought, however, before the action of American Japanese Claims Act, effectively limited the scope of such suit. These potential causes of action again as Justice Goldberg has mentioned, are now blocked by four major procedural barriers, res judicata, the statute of limitation, sovereign immunity, and standing.

The Claims Act of 1948 was a public declaration that evacuation directly caused the loss of property. In monetary settlements, however, were meager compared to the losses. By the time the Claims Program ended in 1965, glaring inadequacies were apparent, including the limited time in which to file the $100 limit, the allowance for property loss. Thus in the end, about 1/10 total losses of the incarcerated were paid.

Congress has the authority to legislate direct appropriations to compensate those excluded and interned. This depends of course on whether the Congress grants the

express authority to provide for the general welfare. Congress has consistently made appropriations to assist the more disadvantaged and deserving segments of society, and permit promotion of the general welfare as a whole.

Article I further grants Congress the power to pay the debts of the United States, and these debts have been defined to include more than written or legal obligations. The Supreme Court has found that debts within the meaning of Article I, include those debts or claims which left upon a merely equitable or honorary obligation which would not be recoverable in a court of law.

A review of the injuries and losses establishes a substantial debt "payable by the United States upon consideration of justice and honor, founded upon equitable and moral considerations." That taken from a case of U.S. v. Realty Co.

The payment of such debts is valid even without the reference to the validity or invalidity of the exclusion and incarceration. Direct appropriations are right irrespective of strictly legal claims.

Not only have payments been made to the injured individuals in the past -- but Congress has fastened a variety of additional remedies. As exemplified by past legislation such additional provisions take the form of increased social security benefits, disability benefits, tax benefits, funds for community development and services, endowments for community culture and arts,

educational funds for the publication of the historical information on the camps as a preventive measure, recreational and cultural centers.

Congress clearly has the authority to legislate this direct appropriation, not only as providing for the general welfare, but to redress the moral debt incurred by the actions of the government against the Japanese people during World War II.

I would now like to turn it over to Lori Suzuki.

CHAIR BERNSTEIN: Thank you. Ms. Suzuki, use the microphone, please.

STATEMENT OF LORI SUZUKI

MS. SUZUKI: Madam Chairperson, distinguished Commissioners, my name is Lori Suzuki, and I am director of Nihonmachi Legal Outreach in San Francisco.

COMMISSIONER GOLDBERG: Would you talk up, please?

MS. SUZUKI: The Supreme Court has stated in U.S. v. Realty Co. cited previously by Mr. Taylor, "The Nation owes a debt to an individual when his claim goes out of general principles of right and justice; in other words it is based upon considerations of a moral or merely honorary nature, such as our finding on the conscience or the honor of an individual. Although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition in payment of claims against the government which are thus founded."

This authority has been continuously referred to in subsequent cases upholding Congressional authority to recognize its obligation to pay a moral debt, not only by direct appropriations, but also by waiving an otherwise valid defense to a legal claim against the United States.

Enabling legislation is required to allow the adjudication of claims heretofore barred by procedural barriers. Causes of action in both traditional and constitutional court would then be litigated, allowing the opportunity for recovery for injuries never before addressed.

There are four major procedural barriers Japanese Americans would face if they were to bring an action in court today. First there's the res judicata effect of the settlements of the American Japanese Evacuation Claims Act, which effectively limited the amount and types of claims that could be brought; and also the res judicata upset of the Supreme Court cases which are used to uphold the validity of exclusion and internment.

Next is the statute of limitations of the Evacuation Claims Act which provided that all settlements had to effect a final judgment, and also the statute of limitations for any tort claims.

Third is the sovereign immunity of the government in certain claims.

And lastly is the standing to sue.

As to standing in the intervening 36 years since evacuation and incarceration, many of the incarcerees have died. Thus, even if Congress waived the procedural barriers in the case of Japanese Americans, claims would never be filed. One possibility to overcome this difficulty is to permit heirs or other non-incarcerated Japanese Americans to file claims in a representative capacity. However, a third and fourth and fifth generation non-incarcerees attempting to recover redress or damages for the degradation of rights suffered by the incarcerees will be confronted with a standing problem.

Since current case law has not developed sufficiently that the standing issue can be resolved without time consuming and extensive litigation, legislation creating standing for the heirs of incarcerees is a more promising avenue overcoming the standing --

COMMISSIONER GOLDBERG: Aren't they helped by the decision we made that even the family, after a prisoner is dead, even the family may pursue his appeal, and to vindicate the families that they were decent people, and their ancestor was not a criminal?

MS. SUZUKI: Yes.

COMMISSIONER GOLDBERG: And that case you are familiar with it?

MR. SUZUKI: Yes.

COMMISSIONER GOLDBERG: So that settles that problem.

MS. SUZUKI: That would solve the problem for the families, but also in addition to that, the problem of injuries that are directly related to people specifically who were not incarcerated would present a problem.

The Supreme Court has indicated it will be receptive to grants standing by Congress in situations in which absentia statutes would not be found. Past Congressional jurisdictional acts can be placed in one of two general categories; one type of act is designed merely to waive some affirmative defense which the United States could presumably otherwise effectively plead.

The other type of Congressional act additionally embraces an admission of liability by the United States and leaves a greater or lesser number of the factual and legal questions relating to damages to the courts.

Congress has enacted legislation based upon a moral debt in many cases, and I refer you to the briefs that we have submitted which I would like incorporated in the record, rather than going into an explanation of all of them.

CHAIR BERNSTEIN: It will be incorporated into the record.

MS. SUZUKI: Thank you.

Congressional jurisdictional acts which embrace an admission of liability by the United States have been the most successful insofar as allowing recovery. By simply waiving technical defenses individuals must additionally

prove a wrong was committed. Even if a cause of action is jurisdictionally allowed, litigation will be lengthy and uncertain due to the possible defenses which could be raised.

For example, in the case of the exclusion and incarceration of the war powers defense, because of such insurgencies the intent to remedy and compensate incarcerees for injury may not be realized if Congress does not enact legislation embracing an admission of liability by the government and its agents.

The Japanese American claim of a moral debt is based upon both unjust compensation in both the constitutional and equitable sense, and upon constitutional violation.

CHAIR BERNSTEIN: Ms. Suzuki, your time is just about up.

MS. SUZUKI: In an equitable sense, even without regard to the validity or invalidity of the government action, a moral debt is established by unjust compensation and the Claims Act.

In conclusion, historical evidence reveals that the evacuation and incarceration of persons of Japanese ancestry by the government during World War II, resulted in millions of dollars of real and personal property losses, for which compensation has never adequately been made.

Further, the American Japanese Claims Act, the only remedial measure provided was strictly limited compensation to property loss. No reparations have ever been made for the multitude of personal families, psychological and other

injuries which were suffered. Testimony submitted to this Commission for upcoming hearings will be clearly documented such injury.

Congressional action is both proper and essential to bring about long awaited redress and reparations. Legislation in the form of direct appropriations fulfilling the intent of adequate compensation for injuries suffered by those incarcerated, and enabling legislation, allowing the litigation of meritious claims mandated by the principles of right and justice.

We respectfully urge the Commission and Congress to swiftfully grasp this opportunity to acknowledge a wrong, a moral debt, by providing just and adequate reparations to individuals of Japanese ancestry.

With time, the opportunity for the Issei to benefit from Congressional action is coming to an end. The injustice would truly be compounded if those who had struggled and suffered the longest were no longer living to see just redress and reparation.

CHAIR BERNSTEIN: Thank you very much.

The next group is the Asian Pacific Bar Association, and we have three representatives who will divide the time. Would you like to go first, Ms. Chao?

STATEMENT OF MARGARET CHAO

MS. CHAO: Madam Chairman, Commissioners, my name is Margaret Chao. I'm a member of the Board of Directors of the Asian Pacific American Bar Association

of Washington, D.C. I am also the secretary of the organization. I'm also a member of the Bar of the District of Columbia.

For the record I wish to speak that the Asian Pacific American Bar Association of Washington, D.C., is an incorporated professional league or association. It represents and advocates the interests of its member lawyers in the Asian Pacific American Legal community, as well as serves the National Asian Pacific American Community through the presentation of policy statements on legal issues affecting the civil, human and political rights of all people.

On behalf of the Asian Pacific American Bar Association, I wish to thank the Commission for allowing our panel to share with you our concerns regarding the constitutional and legal implications of the Japanese American incarceration during World War II.

The first speaker on our panel will be Floyd Shimomura, Acting Professor of law at the University of California at Davis. He was also the former Deputy Attorney General for the State of California.

Following Professor Shimomura will be Ronald Ikejiri, the president of our Bar Association, and a member of the California Bar.

STATEMENT OF FLOYD SHIMOMURA

MR. SHIMOMURA: I would like to thank this Commission for the opportunity to speak and also I would like to thank

the Asian Pacific American Bar Association for inviting me to represent them today.

Sitting here I was wondering what can I tell you in a few minutes to both keep you awake and to inform you and assist you in your great task before you; and I think we all understand the dilemma that's facing all of you.

When Congress considered this very same issue about a year ago, I think it was confronted with the same problems that Dr. Flemming and Justice Goldberg mentioned as well as others. How are we going to resolve a very very difficult question on the one hand, the unprecedented wrong on a mass scale, and on the other hand trying to fashion a remedy which is both just and fair at this point in time.

In carrying out your function, I think you have to first of all define in your own mind what your role is, and I think the closest analogy I can give is maybe a special master. I believe that you should see yourself as the agents of Congress who are confronted with these same issues, both factual, legal and moral, had difficult times resolving them, so they created this body to go out and gather up the facts and come back and make a recommendation. And I think the most significant point to remember is that a master's recommendations are only as good as the findings upon which they are based. If the findings are incomplete, inadequate, then I think the recommendations suffer because of that.

On the other hand, if the findings are comprehensive and done professionally, then I think the recommendations will carry great weight and also those that may disagree with the recommendations will have factual basis from which they can make their argument.

Now in terms of redress as a whole, I think it is important that the Commission define the three victims of redress. The obvious victims are the evacuees themselves, that's Victim Number 1. But there's a second and third victim, and I suggest to you that the second victims were the communities from which these evacuees came from; and thirdly, I think as Congressman Lungren pointed out quite well, the third victim is the nation as a whole.

And I think if you break the problem down into these three components, the answers to your questions will come much more quickly, and I think you can focus your investigation to gather up the relevant data.

Okay, with regard to the first class, the victims themselves, I think you are going to hear over the next month or two, a tremendous amount of personal testimony to the economic loss, loss of farms and jobs, loss of precious civil rights, humiliation, segregation; and I think it is important that the Commission makes specific findings with regard those these things. In a court of law traditionally these things have been resolved in this manner, and I think you're all familiar with it.

With regard to tangible economic losses, obviously that's the question of proof, and I think therefore, the Commission, to perform its job, must make a total inventory of the actual economic loss that occurred back in 1942. I think reference was made to a 1942 report by the Federal Reserve, in which a figure of $400 million --

COMMISSIONER GOLDBERG: Does anybody have that report?

MR. SHIMOMURA: I don't know if anybody has that report but --

COMMISSIONER GOLDBERG: I've asked for it. Do you have it?

MR. SHIMOMURA: I know that effort has been made to get this report with very little success.

COMMISSIONER GOLDBERG: I'm sure our staff will get it, but I thought maybe you had it at your hand.

MR. SHIMOMURA: I would suggest to you that this report, as well as other reports which I believe the government compiled at that time should be brought together and analyzed; the assumptions upon which those estimates were made must be verified again, and I think this is essential fact-finding must be made regardless of what the final recommendation is. So that's one thing that I think is important.

With regard to the intangible loss, the pain and suffering, the loss of human rights; traditionally this has been a question that has been submitted to the

jury based on all the circumstances surrounding the wrong. I think length of incarceration, circumstances are all a factor. It is very judgmental, and again I think the Commission must make specific findings on this in terms of documenting to Congress so that adequate recommendation can be made.

Now I believe in this regard in terms of both economic and let's say the non-economic type of losses. Once this thorough study is done and documented, this Commission, I think, will have a preliminary opportunity to recommend to Congress what it should do about that. But I think if the report is done adequately and honestly and forcefully, the report will stand on its own two feet, so the Congress itself can make an evaluation of the final dollar amount. But I think it would really be a failure of this Commission to exercise its role if it did not first resolve whether you think monetary payments should be made, which I think it should. And secondly, to recommend a certain figure, and to have a firm factual basis for it.

Secondly, I think this is the overlooked issue. I think the second victim of evacuation were the affected communities themselves, and I think we all know that, particularly on the West Coast, total communities were wiped out; they were destroyed, and I think through the social institutions and economic organizations, clubs, language schools, were destroyed forever, and since the

war, many of these communities have been re-established, some were gone forever; and I'm not going to argue the merits of whether this was a good or bad thing. But I think what's important is today in 1981, the Japanese American communities throughout this country are facing problems that are directly a result of things that happened during World War II.

We have a situation where many of the elderly in our community have inadequate housing, inadequate nutrition, medical services may not be what they should be, and I think these things should also be looked into as this Commission goes over the country, they should inquire to the unmet needs of the present Japanese American communities, and to document to what extent, if any, they might be in some way a result of the 1942 evacuation. And I believe, based on these findings, this Commission can recommend to the Executive Branch of Government, as well Congress, that certain federal programs should be made available to these communities in terms of medical care and housing, and I think this is the important thing that the Commission should also look into.

The final area is the injury to the nation as a whole, and I think this is the issue that Congressman Lungren has been making various question with regard to.

I think we all recognize that during the war era, 1942, something was done which was ordered by the President, ratified by Congress, and approved by the

Supreme Court in more than one opinion, Korematsu, and others. I believe as Justice Jackson wrote in the dissenting opinion in Korematsu, that this precedent, "lies like a loaded weapon ready for the hand of any authority that can bring forth possible claims on an urgent neeed."

And I think that something has to be done in terms of maybe a congressional statute that will prohibit this thing from ever happening again to clearly define the manner in which the President and the military can exercise power in times of great crises. I think Justice Goldberg suggested that in today's climate with the present Supreme Court, he doesn't think it could happen again, and I may agree with you, but it seems to me that we have to look to the future though when other individuals may be on the court confronting other crises, and if we learn anything, I think we have to make sure --

COMMISSIONER GOLDBERG: Or, God forbid, another war.

MR. SHIMOMURA: Right -- that we tidy this thing up. So in conclusion -- and I would just like to summarize what this Commission must make, is, I think, an honest and forthright investigation of the losses that were suffered by individuals, and I think the conclusions would lead inevitably to some form of monetary payment. And I believe the Commission must be forthright in inventorying loss and making appropriate suggestions.

CHAIR BERNSTEIN: Thank you very much, Professor. Ron, would you proceed.

STATEMENT OF RONALD IKEJIRI

MR. IKEJIRI: Thank you very much.

I will begin my statement with a quotation, if I may: "I'm not an advocate for frequent changes in laws and constitutions; the laws and constitutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions changed, with the circumstances, institutions must advance, also to keep pace with the time."

We might as well require a man to steal the coat which fitted him as a boy, as civilized society to remain even under the regiment of the barbarous ancestor. Indeed I would say the statement is most revolutionary; indeed the statement is from a gentleman who was a revolutionary and a founding father of our country, Thomas Jefferson; and also so happened to be one of the drafters of the Constitution.

COMMISSIONER GOLDBERG: You give Thomas Jefferson more respect as Chief Justice Marshall, didn't the Chief Justice say the same thing in Marbury v. Madison?

MR. SHIMOMURA: Yes, it was a very excellent citation. The human mind, and indeed the human experience, since the tragic days of the Japanese American internment during World War II has become more developed and more enlightened

article of July 15th, which occurred yesterday, in the editorial. And I would say if the Commission were to come up with a report of the first five paragraphs, that perhaps they have done their job well. We take issue tremendously with the last paragraph, and it indicates, and I think most succinctly states for the Commission possibly its major confrontation that it will deal with, and that is whether Congress should spend billions of dollars now in a belated full-scale effort at genuine restitution, and I think it is easy to discuss and talk about the belatedness aspect, but I think what we have to review, and what I would like to leave with you, is that is it ever too late to tell a generation of living Americans, and their survivors perhaps, and others, how and why they were singled out to be detained and being incarcerated?

I recall that at 13 years old I asked my parents, and they were both native-born Americans, what did they do so wrong to be incarcerated. I trust when my son at 13 years old asks me about his grandparents, I may be able to provide him an answer. And I trust that this Commission will undertake that duty.

CHAIR BERNSTEIN: Thank you very much, Ron. I certainly would say on behalf of the entire Commission that this generation is certainly one of which everybody can be very proud.

and part of our great American development and enlightment will be the work that this Commission will be undertaking.

As victims, we know, or we may never know, the politics of the constitutional law and the circumstances which were at play within our government which led to the issuance of Executive Order 9066; and as a nation we know what the cases of Hirabayashi, Yasui and Korematsu stand for, and too, as a people, we know that by these decisions that hate and fear, hostility, suspicion, rumor and opinion is incorporated into the supreme law of the land; and as a people we know that this precedence existst today.

The Asian Pacific American Bar Association has three recommendations which it would like to share with you:

First, a review of the Supreme Court decisions from 1937 to 1947 will reveal a most interesting aspect, and that is the fact that during this period of expansion of great civil rights and civil liberties by the court, the most glaring example of contraction was that of the Japanese American cases and the treatment of the Japanese Americans during that period.

The second recommendation would be to review the emergency power statutes, and a review and a report by the special committee of the United States Senate on the termination of national emergency, it was noted -- and this was published in 1973, just a few years ago -- that the United States has been in a state of declared emergency since March 9, 1933. It is further stated

in this document that through these national emergencies, and through the hundreds of statutes that delegate authority to the President, and these are extraordinary powers, that are ordinarily exercised by Congress -- these have affected the lives of American citizens and a host of all encompassing manner. This vast array of powers taken together confirm enough authority to rule the country without reference to normal constitutional processes.

The Senate report further notes that beginning with Franklin Roosevelt, all the administrations that would follow also, that the dominant aspect of the presidency has been extensive use of delegated powers exercised by administrators and the military.

The third and final recommendation would be for the Commission to review and conduct a commission-sponsored constitutional conference so that all Americans, legal scholars, individuals, congressional members, senators, and ordinary lay people, can come together and discuss the constitutional legal implications of the Japanese American cases and others.

We all know that the Constitution is colorblind. I think our major concern is those who interpret the Constitution and what color they see.

What I would like to do before I terminate is hear some issues for thoughts, and we'll take a break very quickly here. I'd like to direct you to the Washington Post

Make we take a few minutes before we break for lunch? It is running late, but I would like to give the Commission the opportunity to comment or question in the customary order.

Judge Marutani?

COMMISSIONER MARUTANI: I was going to rack my brain as to any possible relief other than monetary. Do any of you know of a situation where some wrong has been committed in our society which has been remedied by means other than money? I'm thinking of, for example, in a commercial area, antitrust or civil damages, in negligence, whether it be loss of life of limb, the recompense is money. Even in the criminal area, there is a fine, including, incidentally, even in a homicide situation.

Moving over to taxation, another area again for penalties, of course you could get jail terms as well, fines again, we talk about money. Even in the domestic relations area, money is used as a leverage, as a deterrent. And in areas perhaps some of us get entangled in, namely misdemeanors, traffic violations, speeding or jaywalking, that seems to have a deterrent effect. But is there something in our society, in our Anglo-Saxon system of justice where something other than money, other than imprisonment -- of course, we can't imprison the population -- where something other than money was used as a deterrent?

MR. MARK: I think in lower state court decision, in criminal cases where --

COMMISSIONER MARUTANI: No, I don't mean whipping.

MR. MARK: -- where people are convicted of crimes, of minor crimes --

CHAIR BERNSTEIN: Would you speak up, please, Mr. Mark?

MR. MARK: I said in probably the lower state courts, criminal courts, judges have ordered convicted people who may have committed a minor infraction to work off their fines; and I think that's another example, where money has not been --

COMMISSIONER MARUTANI: Would I be correct -- or would the Commission be right in saying that when you recommend monetary relief, that this is not done with a sense of any vengence, or retribution or revenge?

MR. MARK: Well, I think it has to be in the form of exemplary damages to prevent it from happening in the future. And damages are necessary in our jurisprudence system to --

COMMISSIONER MARUTANI: Let me ask you this: If you were given absolute assurance -- and no one can give you that, I want to say that at the very outset, there's nothing certain in this society -- but if you felt reasonably certain that this kind of degredation, and I don't mean simply incarceration, as I don't quite envision frankly in the immediate future, our country again putting people behind barbed wire, although there are a few things I would rule out as being impossible,

but unlikely. If you were given some kind of concrete assurance that that would not occur, would reparations be in order? Would you back away from reparations?

MR. HAYASHI: Mr. Commissioner, I don't believe that we here today can really make that decision. I think we all have a personal belief on that particular point. However we think that who you should be listening to more than us, perhaps, are the people who preceded us and the organizations they represent. We have done research with regard to possible legal bases for any type of remedy including monitary reparations; however, I believe the question you're asking would more appropriately be directed to those organizations and the people they represent.

MR. TAYLOR: Your Honor, as to your question regarding is there anything else besides monetary reparations, the problem is that the high regard for money in this society necessitates that the money has been the only compensation for grievous harm, and so any alternative remedies that we have suggested such as community benefits or disability benefits of the like, all have a bases in the monetary appropriations.

COMMISSIONER MARUTANI: One final thing. I would like to invite Father Gromoff to mention in regard to the Alaskan claims the fact that you've waited how many years since the money had already been determined how much should be awarded?

COMMISSIONER GROMOFF: You mean the Pribilofs?

COMMISSIONER MARUTANI: Yes.

COMMISSIONER GROMOFF: Five years we've been waiting.

COMMISSIONER MARUTANI: And that is after the $11 million has been fixed, is that correct? So if you have ideas about going through litigation, litigation itself in going to be very worrisome, but even after you get a determination in five years -- they're still waiting.

MR. TAYLOR: I might just add on a personal belief that if there is, and obviously there are always will be limited funds, I believe that there is clearly a segment of our population of our people that are clearly suffering economically. Many of our people perhaps are of average income, but especially the elderly are in particular need of assistance.

COMMISSIONER MARUTANI: Well, just so you don't misunderstand me, I want to commend you, and I really mean that; I'm very proud of you. I just want you to know how steep the hill is, I'm sure you realize it; so hang in.

MR. TAYLOR: We're willing to do that as long as it takes.

MR. IKEJIRI: Madam Chair, may I make a quick comment here?

CHAIR BERNSTEIN: Certainly.

MR. IKEJIRI: What I would like to say in respect to Judge Marutani's comments as to monetary reparations is that I believe that money in and of itself is substitutionary relief, and I think that's what you're going for. Assuming that someone had the great power to add three and half years of life on to someone else's life, and extend one's life, how do you also rectify the fact that you're going to restore life chances at that point in time? I believe too many people were cut down or maimed during this period, which as American citizens and other persons should not have occurred.

And the other part, I think the bottom line position would be taken, is the fact that one of the recommendation of the Commission just may well be that we feel that reparations are possible, but we're not going to pay it, and I think if the Commission is going to come out with that recommendation, they should do so; because what we have seen in the last 40 years, this has been within the Japanese American conscience, and I do feel that if American people are willing to say that we will not restore rights, then let's say it. And we will carry this throughout our succeeding generation.

CHAIR BERNSTEIN: Father?

COMMISSIONER GROMOFF: I want to thank the witnesses for their testimony and enlightening the Commission. Thank you.

COMMISSIONER GOLDBERG: Well, you've been great, not only my Hastings colleague.

Some of the mention was to international law, and that alerted me, and if all of you or any of you would file with us a brief analysis of what took place violates the U.N. Charter, the Universal Declaration of Human Rights, and the Helsinki Accord. The U.N. Charter is a treaty of the United States, and under the supremacy clause, it is part of the supreme law of the land. The Universal Declaration of Human Rights and the Helsinki Accord are not treaties, but our government has said that they are moral obligations of our country, and has amended various laws of our country to comply with what is an agreement which represents a moral obligation.

Now it would be helpful to the Commission if you would look at that aspect because there are provisions both from the U.N. Charter and the Universal Declaration and the Helsinki Accord which bear on the evacuation of people; and with reference to the judge's question, which was a very good one -- and I only want to make this observation -- I also read the Washington Post editorial, and I agreed, as you did, with every thing except the last paragraph. I'm not aware that the Washington Post was regarded to be an affront to be paid damages if an injury was inflicted on them. None of us would. It is and accepted, as the Judge said, that the procedure to do justice, and one of the ways we do justice is to pay damages

if we don't do justices. And otherwise our legal system would be about 90 percent destroyed if we abandoned that concept.

CHAIR BERNSTEIN: Thank you.

Dr. Flemming?

COMMISSIONER FLEMMING: I'd like to underline the suggestion that Justice Goldberg has made relative to the international aspects of this. I think there are some possibilities there.

Also, I was very appreciative of the fact Mr. Mark brought us back to the 13th Amendment, I liked the way which you handled it. The Civil Rights Commission within the last two weeks has put out a report on the implications of current budget proposals in the area of civil rights. We found it necessary to go back to the 13th and 14th Amendments and to remind persons of the obligations of the Federal Government under the 13th and 14th Amendment. There are some fiscal implications in that obligation also. But again, I think these presentations are excellent, and very very helpful.

CHAIR BERNSTEIN: Senator Mitchell.

COMMISSIONER MITCHELL: In any redress the Commission determines upon, we're going to have to access blame, and Mr. Hayashi, in your basic report you mentioned the Munson and Ringle report which basically says there's no Japanese problem on the west coast.

And I'm wondering whether in your review of these reports, in your investigation of these reports, you found

evidence as to why they were not given the consideration which today it seems very evident they were due?

MR. HAYASHI: I believe that we were looking primarily at the text of the reports, and we didn't do a thorough investigation as to the reasons why those reports might have been disregarded. I, myself, have wondered since our research, exactly what reasons, on what basis these reports were shuttled aside or whether they were accidentally misplaced or exactly why they weren't given the great heed they should have been; and I think one of the things that I'm looking for at these hearings myself is the answer to your very question.

However, I would submit that if you are requesting maybe further research in that area that we would be happy to look into that and further delve into the reasons why perhaps these reports were not given great heed.

COMMISSIONER MITCHELL: I think it would be meaningful.

COMMISSIONER GOLDBERG: I have just asked permission of the Chair. Much has been made of the fact that this happened 40 years ago. Why is it resurrected? Just the other day our government and the court reached back and revoked the citizenship of a woman who has lived in this country since World War II ended, on the ground that she was a guard at a Nazi concentration camp, committed unspeakable brutalities, a violation of human rights, and misstated that fact in her immigration application; and we, the court, ordered her deported,

she's being deported. So that the mere fact that time elapsed is nothing strange. We reach back on many occasions when time is a factor.

So the fact that a lot of time has passed is really an irrelevant consideration. The real consideration is whether justice has been done.

CHAIR BERNSTEIN: Thank you.

I think for the first time I truly understand what the reason was for the ancient law of ladies first. I can't imagine why I varied the procedures so that I'm always last. However, I think this time my fellow commissioners have expressed to you the views of all of us. You really have presented extremely well this morning. The Commission and the staff would look forward to working with you as we proceed with the development of the report and the development of recommendations. And one reason I guess that would justify the length of time passed is that if it happened earlier, you would not have been with us.

So to that we can find a little light at the end of the tunnel.

Thank you all for coming.

The Commission will convene for a lunch break and reconvene at 2:30.

We'll try for 2:15.

(Whereupon, at 1:15 p.m., the luncheon recess was taken.)

AFTERNOON SESSION

2:35 p.m.

COMMISSIONER GOLDBERG: Our Chair Lady is being interviewed and has asked me to reconvene the meeting, which I'm glad to do.

I should explain our delay in reconvening; we had an executive session of the Commission to review the important testimony we have been receiving.

And now Lillian Baker is our witness. Would you kindly come forward.

STATEMENT OF LILLIAN BAKER

MS. BAKER: Thank you, sir.

I would like to introduce myself, but before I do, I would like to thank in absentia the Honorable Senator Brooke who arranged for my early testimony this afternoon for personal considerations which I believe you are acquainted with.

I am speaking on behalf of Americans for Historical Accuracy, and I'm also carrying with me a letter from that dearly beloved man, Dillon S. Myer, who helped sponsor my trip from California to appear before this Commission.

I am sorry. I'm losing a little of my manners. I should have addressed the rest of the Commission. Please forgive me.

The man who now sits in the Oval Office of the White House told me during a telephone conversation that

I had educated him on the subject under discussion, and that he now has more knowledge of the issue at hand. The documentation which I've presented to him has been previously mailed and also given in hand to this Commission, and I would like it to become part of the record, as well as my testimony.

COMMISSIONER GOLDBERG: It will become part of the record.

MS. BAKER: Thank you, sir. I should say "Mr. Justice."

I would also like to have the opportunity to clarify some of the misconceptions and the statements presented here. I stayed up most of the night looking through my documentation, to answer some of the questions which were actually raised by your Honor concerning, for instance, where that $400 billion figure came from, and several other things.

I should say that I have been involved in the research for a book with a foreword written by Dillon S. Myer, which I hope will help clarify some of these things. This book has been "in production", so to speak, for ten years.

COMMISSIONER GOLDBERG: It's been a published book?

MS. BAKER: I will tell you why it has not been thus far.

COMMISSIONER GOLDBERG: The reason I ask, we would take judicial notice.

MS. BAKER: Thank you, I will be happy to submit the manuscript. But I might add that I <u>am</u> a published

author. I'm proud to say that one of my books is in the Library of Congress. It is the only book on the subject. I am quite a research-historian in many facets.

I am also an awardee of the Freedoms Foundation at Valley Forge for my journalistic career, and when I accepted that award, I promised that I would work for the betterment and the understanding of America and Americans.

Now if my intensive research can educate a president, surely there is hope that this Commission and those in attendance at these sessions, can be enlightened as well. This research includes some rare books and papers which I will be more than happy to make available to the Commission --

COMMISSIONER GOLDBERG: If you will file a list, we would appreciate it.

MS. BAKER: Thank you.

Many of them have never been opened before, and were made available by the man who was the security officer at Tule Lake and dedicated these papers to the University of the Pacific at the Stuart Library. I am the only historian that has ever been allowed to use the papers written by the evacuees themselves.

Some sentiments of those serving on this Commission have been published previously in the ethnic press, but I'm not one to prejudge. I'm really a historian, and I belong to group called Americans for Historical Accuracy. And I think the majority of those in the Senate

and the House, who voted to sponsor and appropriate $1.5 million in tax monies to study any "wrongs of our government," should not and cannot be faulted if their observations and conclusions have been based on books with wrong information -- boggled down with historical inaccuracies. After all, it wasn't until the broadened Freedom of Information Act of 1977 that previously classified documents were released as reclassfied or declassified to authors and historians, documents which do clarify this most misunderstood and propagandized action of World War II.

Now I'm going to interject a little humor if you don't mind, in a serious issue. I think soft-hearted Americans will buy anything, including the big lie. And like other products of hindsight historians, each year the story is "new and improved." Each buyer reaches for the ACLU and JACL publications which are nothing more than brief statements of briefs which have been rejected by our Supreme Court. Yet these briefs have been accepted as fact in our academic society. The ACLU and JACL lost in the courts, but thus far have won in the forum -- the forums at universities where hindsight historians, safe in their intellectual towers, whip up anti-American sentiment among impressionable students.

These are the ilk of historians, who as Norman Corwin wrote in his epic "On a Note of Triumph" -- and I'm sure some of you are familiar with that broadcast

(and I worked at WNIS as a journalist at the time) these historians "took comfort," he said, "in the safety of pins on maps that our forces had gotten through." And it was Corwin who prophetically asked "have you ... -- (to all of us Americans) -- "... paid part of the cost of war? Shall the balance sheet be balanced? By whom? How?"

A judge in Paris, France, recently awarded reparations to an injured party of the Jewish faith because someone merely implied that there was no historical truth to the Nazi concentration camps. [I have seen the proof of Nazi concentration camps.]

Now here's a precedent to ponder. A precedent justifying a class action suit on behalf of Americans for Historical Accuracy against such persons and organizations who have <u>implied</u> that America's wartime relocation centers <u>were</u> "concentration camps." This, even after our Supreme Court admonished the ACLU and the JACL, in the landmark Korematsu decision --and I'm quoting-- "Regardless of the true nature of the assembly or relocation centers, we deem it unjustifiable to call them "concentration camps" with all the ugly connotations that term implies." That was in October of 1944, before we really knew, in April of '45, what those death camps <u>really</u> were --

COMMISSIONER GOLDBERG: You will agree with me, won't you, that the dissenting justices took strong exception.

MS. BAKER: I agree, but the dissenting viewpoints, Mr. Justice, are not the law of our land.

COMMISSIONER GOLDBERG: You're right.

MS. BAKER: That term --rejected by our Supreme Court which has the final legal determination of what is historically accurate -- that insidious politically motivated and highly propagandistic term "concentration camps," has been introduced as acceptable by these authors and lawyers and historians, who would rather deal with emotion than with documented facts. To do otherwise would require work. To do otherwise would call a lie to their previous statements. It's much easier for them to resort to those "history-weary valleys" of book shelves stacked with volumes whose refrains are likened to a broken record cracked with rhetoric.

Hopefully, my book with its foreword written by Dillon S. Myer, and an introduction by the man named "Mr. California" by our President, the late Coke Wood, will correct these wrongs.

COMMISSIONER GOLDBERG: You'll forgive me if I interrupt you, because we want all of the information. Are you going to make a copy of your book available?

MS. BAKER: I am.

COMMISSIONER GOLDBERG: And we would appreciate that very much.

And I would like to say something. As you've been listening to the testimony, a commission like this is very much like the courts, and you remember the newspapers, you remember the court when it heard the

Iranian case.

MS. BAKER: Yes.

COMMISSIONER GOLDBERG: You read the newspapers, you would have thought that the court stood against the government by the questioning. Then it emerged that the court was unanimous for the government.

So I hope you do not get the impression that this Commission will prejudge the question.

MS. BAKER: I wouldn't be here if I thought that, sir.

COMMISSIONER GOLDBERG: But you said something, and you'll forgive me if I say this, you said it out of kindness. I would not want the implication to arise, and that is so, we are seeking to find out truth from any source, and when we question, we question in the same source as the Supreme Court questions; and you are not to assume, nobody is to assume that the nature of the question being indicates bias, prejudice, any way pro or con, it doesn't.

MS. BAKER: I'm very happy to hear that, sir.

COMMISSIONER GOLDBERG: On the other hand, since you're a historian, you won't mind if I point something out to you?

MS. BAKER: No, I don't at all.

COMMISSIONER GOLDBERG: Korematsu, as I pointed out to someone who read, after all was issued at a time when the Supreme Court did not regard the due process clause of this amendment to have an equal rights provision.

That since has been overruled. So that now, the Supreme Court of the United States unanimously regards this amendment to have an equal rights provision, the same as the 14th.

MS. BAKER: This Commission is going to have to sit judgment in my own efforts as a historian and author.

COMMISSIONER GOLDBERG: I just wanted to point that out because you mentioned Korematsu as the prevailing authority, and I just want to say as an ex-Justice, that it was part of the group of decisions which has since been substantially overruled.

At that time the justices did not regard the Fifth Amendment to have an equal rights provision. Now all of the justices follow the doctrine.

MS. BAKER: Thank you.

Our Supreme Court also stated that no evacuee "either in fact or by law," had to go from an assembly center to a relocation center, and many thousands did not but relocated away from the "red zone" of our endangered west coast.

The Japanese Chamber of Commerce publication of 1960 said that it was the duty of the Nisei, whose average was -- and I'm quoting from the book -- "whose average age was 17", that it was "their duty to accompany their Issei parents" to the War Relocation Authority centers.

The lawyers who know all the legal jargon and the politicians who of course are eager to net every possible

vote, know the cost of politics, but know not the value of patriotism. Why else a Commission to "study any wrongs"? Why not a commission to educate the public and the world about the rights of our wartime action, thus erasing that false notion that our World War II evacuation was -- and I'm quoting now from the ACLU brief -- which has come down as "the book" and calls it "the most shameful episode in American history."

We have a team here led by a man who claims his rights were violated under the First amendment. They were not. Redress was granted him all the way up to our Supreme Court, in courts which were still working even as our country fought to preserve that right of redress. Represented by the ACLU, he had his moment all the way up to our Supreme Court, and in a unanimous vote the Supreme Court upheld curfew in wartime. Had he violated these curfew laws in time of war in any other country, he would have been shot.

COMMISSIONER GOLDBERG: This is why -- you'll forgive me, I can't get over the fact, did sit once, and it's a habit judges have of questioning.

You know, when I said earlier that I couldn't see that Korematsu would be sustained by the Supreme Court today, it was because of the question I asked, it's very technical, it's a legal question of application of the laws.

It is inconceivable today, and I'm very timid

about saying what the court would do because I no longer sit, but it's inconceivable today that the court would sustain a curfew law directed at certain elements of our population. It's inconceivable. That's because of equal protection.

In other words, the curfew law decision would just not hold water today, and one of the witnesses mentioned, quite properly, that Korematsu for example had never been overruled. Well, you know, it's a strange thing, alien and sedition laws in our country, which muzzled the press right at the beginning of our republic, have never been overruled.

But, in one of the decisions while I was on the Court, Justice Brennan said it has been overruled in the court of history. In other words, history repudiates that and the court of course has accepted the historical verdict.

So that the curfew law, while it was sustained at that time, under the conception that equal exemption of the law wasn't present, today would not be sustained, and --

MS. BAKER: Of course we were under different conditions and we had quite a different court then. But still we were a country and are a country of laws and compassion.

COMMISSIONER GOLDBERG: But we're not a country which believes, you know, following mistakes, the Supreme Court overruled the opinions of mistaken laws, and as was pointed out in the alien and sedition cases --

MS. BAKER: And I'm now presenting the viewpoints based on documentation --

COMMISSIONER GOLDBERG: I understand that, but I would think it is important, because I happened to have occupied --

MS. BAKER: And I honor you for it.

COMMISSIONER GOLDBERG: And have the unique knowledge because I happened to be there --

MS. BAKER: I'm sure that you reached that place because you have a lot more wisdom than I.

COMMISSIONER GOLDBERG: -- to say that the position that you are reading just would not be sustained.

MS. BAKER: We are now talking about a time in which I also lived. And I will just deviate for just a moment --

COMMISSIONER GOLDBERG: I'm sorry for interrupting.

MS. BAKER: I worked for the POM Team at that time, which was the Preparation for Overseas Movement, so I know pretty much what went on in the military. I also was a journalist working for WINS in the media, and when certain things happened and we were told not to "leak", we did not "leak".

Now surely the lawyers that are assembled here know that this Commission has no power to overturn a Supreme Court edict. Because only the Supreme Court can do that.

COMMISSIONER GOLDBERG: And I will go further.

this Commission has no power at all, the only thing we can do is recommend.

MS. BAKER: Right.

The Supreme Court must reverse itself. It has had 40 years to do that. It never has. And so is it then the purpose of some -- not this Commission -- to propose laws to usurp that power, to lose the separation --

COMMISSIONER GOLDBERG: Forgive me again, as a historian, there's nothing in our constitution, and nothing in Korematsu which would prevent Congress from enacting remedial legislation. All that the Supreme Court said in Korematsu was that their conception of executive order in the then existing legislation authorized the executive order. Then, however, and you've read the opinion, the opinion makes very clear that it would be within the competence of Congress to decide otherwise. See, so it isn't a question of overturning. This Commission supports the Congress.

MS. BAKER: Sir, I didn't use the word so much "overturn" as "reverse itself." I think there's a little difference between reversing and overturning.

COMMISSIONER GOLDBERG: Congress cannot pass laws which take away fundamental rights protected by the Bill of Rights; it would be unconstitutional for Congress to do so. But the courts and Congress have the right to enlarge the scope of protection for people, and of course Congress has clean area authority to say someone was abused,

they do it every day, they file private bills and they say so and so was wrongfully treated by the government, and we give them an award. Even when the Supreme Court decides that the award wasn't justified.

See, that is not beyond the competence of Congress. One thing Congress cannot do is take away the protections afforded to us by the Constitution. That Congress may not do. But that would be unconstitutional. But Congress has absolutely clean area rights to exercise its authority to enlarge the scope of constitutional protection; it may not contract.

MS. BAKER: You know, I'm really glad that you're acting a bit like the devil's advocate. I hope you'll continue to do that after my talk, because that gives me an opportunity to answer some of the questions.

COMMISSIONER GOLDBERG: No, I'm not asking as a devil's advocate, I am merely using my expertise --

MS. BAKER: Which you have, of course.

COMMISSIONER GOLDBERG: -- to explain --

MS. BAKER: Now you didn't expect me to argue law with a Supreme Court Justice?

COMMISSIONER GOLDBERG: No, don't do it.

MS. BAKER: No, I wouldn't do it. I am merely going to quote from an existing Supreme Court edict which was effective as of the date it was written.

COMMISSIONER GOLDBERG: As of that time.

MS. BAKER: Now surely the lawyers have studied Public Law No. 866, the Evacuation Claims Statute of July 2, 1948, and know that the Statute of Limitations has run out on reparations. Because this law states -- and I'm quoting from it -- "The Attorney General shall receive claims for a period of 18 months from the date of enactment of this Act," and that "all claims not presented within that time shall be forever barred on this subject."

The claims settled included reparations for -- and I'm quoting -- "Personal injury ...," [not just property], "personal inconvenience ...," [not just property], "... physical hardship ...," [not just property], "... or mental suffering." And settlement was, "final and conclusive for all purposes on this subject for all time," except for this: if a settlement had been made on behalf of a minor -- that meant an American citizen -- when that minor reached the age of 21, he could have then reopened that claim. But not a single one came forth. And you cannot do that when you're 31 or 45 or 65. You have to do it when you turn age 21.

COMMISSIONER GOLDBERG: Now you're discussing law.

MS. BAKER: I got this right out of the mouth of the wife of the District Attorney of New Orleans --

COMMISSIONER GOLDBERG: Yes, but with due respect to him, I was called to testify in a case that I settled, as Secretary of Labor, involving a strike situation where people thought they were aggrieved. It so

happens as coincidence. And I wondered -- this was many years ago -- I was Secretary of Labor in '61 -- so the same problem was settled, and the Statute of Limitations of their claims would normally be five years, so I wondered what the devil was this claim being litigated about, just as a legal matter. And just to make you familiar with a principle of law. What happened was that this group of people went to Congress, and Congress was in its rights, just to pass a law which repealed the Statute of Limitations applicable to the '61 claim. And they said that that claim may now be litigated, that it is being litigated in the United States Court of Claims.

MS. BAKER: Sir, I'm not here to make any final judgments. I am just presenting testimony, and based on this -- please, sir -- whatever you people decide you are the ones who have the final word, not me.

COMMISSIONER GOLDBERG: You misunderstand me.

MS. BAKER: I'm beginning to, really.

COMMISSIONER GOLDBERG: You do.

MS. BAKER: Because you haven't really quite interrupted as many times -- I mean I think people are beginning to lose the train of my presentation.

COMMISSIONER GOLDBERG: We could interrupt you by asking you to follow the rules regarding your written statement, as we have with others.

I have not interrupted you to harass you, because --

MS. BAKER: I'm sure you haven't, sir, but I think you understand --

COMMISSIONER GOLDBERG: But when a statement of law is made which is absolutely wrong, then I must interrrupt you to --

MS. BAKER: I would like to make it clear, sir, that when I received a letter from Paul Bannai, he said he preferred a written statement but he did not tell me it was required or I would have done that. He did tell me he would prefer it and I did send every one of you people the documentation that I had. But at the time, I did not know, first of all, whether I was going to be allowed to appear --

COMMISSIONER GOLDBERG: Well, you're here.

MS. BAKER: I'm here. So please may I have my day in court, sir.

COMMISSIONER GOLDBERG: Of course you're having it.

MS. BAKER: Thank you.

COMMISSIONER GOLDBERG: But you must remember as a historian, and you must give due regard to the fact that when someone claims it to be a rule of law as an expert, and here's the sentence that says "settled for all time," Congress, as in the case I was called up to testify, just passed the law and said it was not settled for all time; and I was called as a witness, and by the way I didn't like it, because they were trying to upset a

settlement that I had made.

MS. BAKER: I have the statute right in front of me which was passed by the Congress, as published law, and they are the ones who said "for all time," not me. I am merely quoting from the statute.

COMMISSIONER GOLDBERG: I understand that. But it is within the competence of this commission to recommend to Congress, because Congress presumably had something in mind by creating this, it's within the competence of the Commission either to recommend or not recommend that despite the passage of time, there be no statute of limitation. That's a rule of law.

MS. BAKER: I think, speaking for Americans for Historical Accuracy, that since the matter of redress and reparations had already been decided by our Congress through these public laws and these enactments, that we can set this aside, because it has not been denied as has been allegated. But we should not be really as concerned with the dreams of this $4 billion in unearned and unjustified reparations, by a group which by and large weren't even born during World War II. Rather, it is to consider the loss of that time-honored culture of Japanese honor. But to have that kind of honor, [such as Toyo Miyatake had -- the gentleman who I've interviewed], that requires a sense of shame.

The actions of this group who the Honorable Senator S. I. Hayakawa called -- and I'm quoting his

article -- "a young wolf-pack of Japanese American dissidents who weren't even born during World War II," (and that is Senator Hayakawa's quote), is indeed shameless.

Perhaps it is a blessing that most heroic Issei who actually experienced the wartime dilemma, are deceased and therefore cannot witness the dishonor and dismantling of their work and their dreams for a better future for Americans of Japanese ancestry. This is really the pitiful part of this tragedy and travesty that is being acted out today by these dissidents.

If the benefit of my years of research into the archives never touched by another author or historian, teaches nothing else, please learn these facts which are based on documentation and not emotion:

There were four wartime facilities established by our government during World War II. None would have been established in time of peace.

On December 7, 1941, internment camps for German, Italian and Japanese aliens only, administered by the Department of Justice were established. There were no American citizens interned in the internment camps for enemy aliens. There were those of Japanese ancestry who chose to join together as a family -- in an internment camp -- although they were innocent and although they were American citizens. But that was a privilege extended only to those of Japanese ancestry, a privilege not extended to the Germans or Italians or other enemy aliens

in the internment camps.

CHAIR BERNSTEIN: May we have order, please.

MS. BAKER: The Prisoner of War Camps, the POW, were administered by the military. That's obvious.

On March 21, 1942, Executive Order 9102 established the War Relocation Authority, completely under civilian control, with self-governing evacuees serving as "wardens." And I again refer to the Japanese Chamber of Commerce publication of 1960, in which they specifically state: "The Nisei was the self-governing force of the relocation centers."

Executive Order 9066 dated February 19, 1942, the exclusion order which was upheld by our Supreme Court, only affected Italian, German and Japanese aliens only. However, the initial Executive Order 9066 pertained to "any and all persons." It was a subsequent civilian order that then affected -- not as Mr. Masaoka said, "just Japanese" -- but German aliens, Italian aliens, Japanese aliens, and persons of Japanese ancestry. It did not exclude Italians and Germans.

An incident happened while I was back in New York working for the radio station. I covered the story when Mayor LaGuardia was approached by Joe DiMaggio, begging an exception for his mother who lived on Terminal Island in California. But they did not make an exception. She had to move with the rest of them, the persons who were then considered enemy aliens -- and the Germans and

Italians were not considered alien enemies until December 8th when Germany and Italy declared war on us. The War Relocation Authority didn't even exist when Executive Order No. 9066 was issued.

The fourth designated facility was the segregation center at Tule Lake, formerly one of the ten wartime relocation centers. Formerly under civilian control, it was transferred to military jurisdiction in late July 1943. Into this segregation center came both citizen and alien evacuees from the other nine war relocation centers -- those who were considered "troublemakers," or pro-Japan. Tule Lake segregation center also included the innocent families of those pro-Japan culprits who had made their wartime choice of loyalty to Japan, and who have passed on that collective guilt to their descendants.

In the landmark Korematsu decision, it clearly states, and I'm quoting: "That there were members of the group who retained loyalties to Japan has been confirmed by investigations made subsequent to the exclusion. Approximately 5,000 American citizens of Japanese ancestry refused to swear unqualified allegiance to the United States and to renounce allegiance to the Japanese Emperor, and several thousand evacuees requested repatriation to Japan."

Now if the evacuation and exclusion order on the west coast was a racist act, then why weren't persons of Japanese ancestry forced to also leave the east coast and the midwest states. Why weren't Germans and Italians

by Executive Order 9066, but simply stated, the United States was expecting an invasion by the Empire of Japan and not by the Axis Nations of Germany or Italy. No person of Japanese ancestry, citizen or alien, had to leave any of the other states away from the military designated areas known as the red zones on our west coast. They remained on jobs and in their homes. This included enemy aliens, for that's what Japanese nationals became with the bombing of Pearl Harbor.

It should also be pointed out that a group of loyal Americans and aliens worked for our government at secret places, and in fact the Japanese Americans Citizens League, upon the death of President Roosevelt, wrote a book called We Worked for Victory, and it was dedicated to the author of Executive Order 9066.

But just take one moment to reflect on the treatment of American nationals and their allies who were caught abroad. Let's set the record straight once and for all. There were no Americans of Japanese ancestry -- [and forgive me if I don't say "Japanese Americans" because you're either American or you're not] -- interned in internment camps during World War II. Only enemy aliens were in the internment camps administered by the military. Internees were people who were individually suspected of being dangerous to the internal security of the United States, were given a hearing on charges to that effect and were then confined in an internment camp.

I'm now quoting Mr. Dillon Myer --

CHAIR BERNSTEIN: Ms. Baker, may I ask, because I have other witnesses, and we are exceeding the time limit and would you summarize please?

MS. BAKER: I've really come to the most important part and I think my time was taken -- as I'm sure you will agree -- extraordinarily taken with so many interruptions -- so I will read much faster.

The word "camp", when referring to the relocation centers, leads people to confuse the centers administered by the WRA, with the detention and internment camps administered by other agencies.

I'm quoting now, "Evacuees were not interned." In fact, evacuees were free to leave the WRA centers, were urged and assisted in doing so. And one of the most active and vital agencies working with the relocation was the Japanese American Citizens League, the same JACL that twice honored the Director and staff of the WRA for the "humane treatment and understanding of the plight of the evacuees."

I interviewed Mr. Myer, Director of the WRA, at his home in Washington, D.C. This dedicated American, who now lies desperately ill, appealed to me to represent his feelings, and has helped sponsor my trip on behalf of APHA to testify before this Commission.

Mr. Myer said, and I'm quoting him, "I do not want to go down in history as a director of concentration

camps." And when I mentioned the name of some of those who have been leading the campaign to demean America and Americans with that infamous term "concentration camp", Mr. Myer, [with tears in his eyes] -- and I'm quoting a direct quote which is on tape -- "Why those men kissed my hand in gratitude." And his wife said "I wish that Dillon had died before any of this had ever come out."

Listen to this man for dear honor's sake. Do not demean the dead who gave their lives so there would never be "concentration camps" anywhere else in the world. Don't make a mockery of those who died in Nazi concentration camps by equating America's relocation centers or the internment camps or segregation centers with "concentration camps." The World War II connotation of "concentration camps" is <u>death camps</u>, and conjures up the most horrible of images. And the term is highly propagandistic.

As President Reagan wrote me, "I must confess I have much more knowledge about the relocation camps now thanks to you. There is no doubt in my mind it would be a great injustice to mount markers designating them as 'concentration camps.' Whatever the technical interpretation of that term, it will always evoke a picture of those horror camps in Nazi Germany. There was certainly no comparison between those and the camps here in the United States."

Our Supreme Court is the legal body whose grave responsibility is to make final judgment of the

constitutionality of government actions. And it was upheld by three of the most liberal Justices voting in the affirmative: Mr. Justices Black, Douglas and Frankfurter. And furthermore, when the late most liberal Mr. Justice Earl Warren was asked to apologize for his World War II actions as Attorney General, he never would apologize.

The late Justice, Mr. William O. Douglas, probably the most liberal who ever set on the bench, reaffirmed his position as late as 1974 in DeFunis v. Odegaard, stating -- and I'm quoting from that judgment: "Our Navy was sunk in Pearl Harbor, and no one knew where the Japanese fleet was. If the Japanese had landed troops on our west coast, nothing could stop them west of the Rockies. The Military judgment was that, to aid in the prospective defense of the west coast, the enclaves of Americans of Japanese ancestry should be moved inland, lest the invaders by donning civilian clothes, would wreak even more serious havoc on our western ports."

And James Oda in his latest book paraphrases this by saying that if the invasion forces of Japan had come to the west coast, every Japanese American would have been slain and had they -- and I'm quoting from James Odo, who worked for our military, and a person of Japanese ancestry, a citizen -- and he said that the Japanese, if they landed, there would not have been a single American of Japanese ancestry or the Issei alive, because the Americans in turn, would have slain them. So that they were --

CHAIR BERNSTEIN: Ms. Baker, I think you really have used not only the time that was allotted, but additional time. We have even discounted for Justice Goldberg's questioning, and I'm afraid I will have to call the time, as we have on all the other witnesses. Your full statement of course will be submitted to the record, and correspondence --

MS. BAKER: I realize that and I appreciate that. But Minoru Yasui testified yesterday, he testified again today, and he is someone who broke the law during the war. I am a World War II widow, I think I have a right to speak as an American --

CHAIR BERNSTEIN: I think we have granted you --

MS. BAKER: I think you have not. You have not really granted me the right. I have timed these speeches, and there was 650 minutes given to my opposition. Those with one point of view. And I have gotten how many minutes?

CHAIR BERNSTEIN: Ms. Baker --

MS. BAKER: I mean, you say that this is Commission that is open-minded. I want the press to hear what I have to say because I have been muffled by the people -- the persons who have been opposing me -- and I have not had my chance in court that was promised by the Honorable Mr. Goldberg.

CHAIR BERNSTEIN: I'm sorry, Ms. Baker, I think we have allotted more than fair time.

MS. BAKER: May I sum up with two paragraphs?

CHAIR BERNSTEIN: You may sum up in less than one minute.

MS. BAKER: All right, I will. Thank you.

I'm skipping about two pages, which by the way are bold type [I've used my orator key which is the very largest type.]

Anyway, today I have reached a milestone. I've had the first opportunity to talk on issues considered too tender or too taboo for truth's scalpel. But it takes just such a lance to puncture this boil, and let's pray that the wound will heal in a healthful air of considered judgment.

Thank you. Are there no questions from the panel?

CHAIR BERNSTEIN: I have not yet had an opportunity to ask.

MS. BAKER: I'm not expecting any, and I want to prepare myself for the shock in case they come.

CHAIR BERNSTEIN: Can we take it in order.

Judge Marutani?

COMMISSIONER MARUTANI: I have many many questions and many many challenges to the accuracy of what you state, but I'm going to pass. I think your statement speaks for itself very eloquently, ma'am.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: Talking about concentration camps, I will give you a quote, by Harold Ickes: "We gave the fancy name of relocation centers to these dust

bowls, but they were concentration camps nonetheless."

MS. BAKER: Can you give me the date of that quotation?

COMMISSIONER GROMOFF: March of 1942.

MS. BAKER: That's right, and every quote that the late Edison Uno and everyone else has presented with the term "concentration camp" used, was used before April 1945 when Eisenhower called the world in to witness the Holocaust. Even President Roosevelt, just before he died, had used that term. Would the ACLU or anyone approaching any bench use that term since World War II?

CHAIR BERNSTEIN: Are there further questions or comments?

COMMISSIONER GROMOFF: Yes, I would like to ask one more question.

CHAIR BERNSTEIN: I'm sorry, Father, I didn't mean to interrupt.

COMMISSIONER GROMOFF: Your being a historian, did you hear anything about the Aleuts being put into evacuation camps?

MS. BAKER: The only thing I read was that the forces -- that we had not prepared ourselves fast enough for our preparations in the Aleutians. The Japanese had already almost taken them over, and that -- [I have a letter in the evacuee files, which I'd be glad to send to you] -- which hints at the fact that there was an evacuation, but I frankly have found very little in the record.

COMMISSIONER GROMOFF: And you call yourself a historian?

MS. BAKER: Have you found anything, sir? Please let me know, because I would like to include it in my book.

COMMISSIONER GROMOFF: That's all I have to say.

CHAIR BERNSTEIN: That completes the questioning of the Commission.

Thank you very much.

We have next a panel of national organizations. Mr. Edward Ennis of the American Civil Liberties Union was to have appeared here today; he has sent a written statement and will appear at a later time.

Mr. Louis Schneider is with the American Friends Service Committee.

Would you please come forward, Mr. Schneider?

The Leadership Conference on Civil Rights was to have appeared, they sent us a message this morning they were not able to be here but have sent a statement.

The NAACP Legal Defense and Education Fund is represented by its director and counsel, Mr. Jack Greenberg.

Mr. Schneider, would you begin, and identify yourself for the record properly, with your title and so forth.

STATEMENT OF LOUIS SCHNEIDER

MR. SCHNEIDER: Thank you very much.

I am Louis W. Schneider, former Executive Secretary of the American Friends Service Committee. I am here to speak on behalf of the American Friends Service Committee, an organization with national headquarters in

Philadelphia, Pennsylvania; ten regional offices in the United States, and programs throughout the world. I am accompanied by Ed Nakawatase, national program staff for the Community Relations Division in Philadelphia.

The American Friends Service Committee was established in 1917 as a way of implementing Quaker beliefs in human equality, social justice and peace. Our perspectives presented here before the Commission on Wartime Relocation and Internment of Civilians represent both our experience in assisting the victims of war and economic and social upheavals, and our efforts in pursuit of social and economic justice.

In 1942, after the American government --

COMMISSIONER GOLDBERG: We have applied to Ms. Baker, who thought she was being abused, the rule that --

CHAIR BERNSTEIN: The rule of interruption.

COMMISSIONER GOLDBERG: And the rule that -- written statements are not to be read but summarized. In fairness to her, I think the same rule applies to you. So would you summarize your statement.

MR. SCHNEIDER: I think I could probably save time by reading it, it's a very short one.

COMMISSIONER GOLDBERG: Well, don't you make the judgment, let the Commission make the rules, and follow it.

MR. SCHNEIDER: Thank you.

In 1942, after the American government interned

people of Japanese ancestry, most of whom were American citizens, the AFSC was asked by the War Relocation Authority to assist internees. We agreed to do so in a letter with words we would still endorse on our position on the evacuation and internment.

And if I may be permitted, I would like to read two sentences from that letter to our constituency in 1942, we said, "It seems appropriate, however, that in undertaking this service, a statement should be made to our constituency making it perfectly clear that we do not accept this evacuation as a matter of course nor approve it in principle. The events of the past few months have caused us deep humiliation and profound concern."

Having accepted this invitation from our government, we then played a principal role in assisting Japanese young people, Japanese American young people, in finding opportunities to attend American colleges to continue their education despite the internment. And by the end of the war, the American Friends Service Committee had assisted some 4,000 students, placing them in 600 colleges and universities in 47 states of this country.

Throughout the internment in other respects, the AFSC also assisted in a number of camps with health care, education, and other needs.

When the war ended and people were free to leave the camps, we then established our own relocation hostels in four different cities of the United States, in

Cincinnati, Des Moines, Los Angeles and Pasadena, and assisted in the course of that program some 3550 evacuees in long-range planning for their finding housing and jobs in communities to which they had returned.

Having reviewed this history, we would now like to devote the bulk of our remarks to the implications of evacuation and internment for us today, including the issue of redress. We do this based on our experience and work and struggle for racial and sexual equality and social justice.

Among the most disturbing aspects of the Government's action in our view was that it happened at all. The action was racist on its face, subjecting Japanese to internment, an act which was not done by the Government to either Italians and German people, of Italian and German ancestry.

There was no evidence on the west coast that --

COMMISSIONER GOLDBERG: You mean, don't you, to set the record straight, and in fairness it should be kept straight, you're talking about Italian and German citizens, American citizens.

MR. SCHNEIDER: American citizens of Italian and German ancestry.

COMMISSIONER GOLDBERG: You're not talking about aliens?

MR. SCHNEIDER: No.

COMMISSIONER GOLDBERG: Of Italians and Germans,

some of whom were interned.

MR. SCHNEIDER: You understand me correctly.

COMMISSIONER GOLDBERG: So that statement should be made clear because the record is getting confused about that.

MR. SCHNEIDER: Right.

COMMISSIONER GOLDBERG: And this, as far as I know, only group of citizens that were interned were the Japanese Americans, and the only other group of citizens who were evacuated were the Aleuts, isn't that correct?

MR. SCHNEIDER: We have that understanding of the matter also.

You're familiar with the Curtis Munson report which was made on behalf of the State Department before the internment program was put in effect, and I need not comment further on that.

I might note, as has also I'm sure been pointed out that economic advantage combined with racist hysteria led to homes, farms, stores, real estate and other property being seized with no compensation in violation of Constitutional protections. Numerous non-Japanese profited because of the evacuation and internment. All of these points have been made before and will be made again, but these truths must be emphasized for they remain a blot on the history of our country.

We would like to focus on another point also, and I quote another sentence from a 1942 letter when we

accepted the invitation of the government, "If one minority of our citizens, without trial and without proven guilt, can be forcibly moved under pressure, any minority under different circumstances of inflamed public opinion runs the danger of losing its democratic rights."

We feel that point with even more force and urgency throughout these intervening years. We're all familiar with the hysteria of the McCarthy years, which attempted the destruction of unpopular political minorities. We see in our work in Black, Hispanic, Asian, and Native American communities, the continuing vulnerability of people of color in this country. We know through our activity with women activists, as well as with lesbians and gay men, that forces of intolerance appealing to fear are very much alive in this country. Our current work along the U.S.-Mexican border also reveals these forces at work.

In the wake of these past and current activities, it is most discomforting to know that there is no body of legal opinion, given the narrowly-based decisions of the U.S. Supreme Court in the internment cases, and no statute which would prevent the repetition with another group at another time of that disgraceful past action.

We have discussed so far what we see as the most contemporary implications of the evacuation and of the internment. In that vein, last month the Board of Directors of the American Friends Service Committee

strongly endorsed redress to those who suffered as a result of the evacuation and the internment.

The American Friends Service Committee is on record for formal acknowledgement of wrongdoing on the part of our government, and for monetary compensation to the victims. We believe that the enormity of the government's action, as well as the necessity to curb the threat posed by the example of the internment warrant support for redress. Our past experience impels us to support redress on its merits and as a deterrent. We believe that the past official act of racism is unacceptable as a precedent for present or future policy. Such government action should also be formally impermissible in the future.

Now one final comment. We applaud both the mandate of the Commission and the means used by the Commission staff in implementing that mandate. We feel it crucially important that those who were victimized during the war now articulate their experiences. We feel it very important that the American public be privy to the hurt, the anger, and the resilience of the human spirit that are part of those experiences. Perhaps the most painful aspect of the government internment has been the psychic effect. For nearly 40 years there has been a collective silence about the evacuation and the internment. All of us have much to gain from public discussion of the issues that surround the mandate of the Commission. We feel

now as we did 39 years ago that fundamental questions about the reality of a democratic society with racial equality and social justice are intertwined with what happened then to 120,000 people of Japanese ancestry.

Thank you.

CHAIR BERNSTEIN: Thank you.

Mr. Greenberg. You'll get an A+ from Justice Goldberg if you turn your paper in and talk to us.

STATEMENT OF JACK GREENBERG

MR. GREENBERG: Madam Chairman, I'm privileged to appear before this distinguished panel, and I hope that Mr. Justice Goldberg will recognize that while I have submitted a brief, and I may refer to it from time to time, I will be arguing without reading from it.

COMMISSIONER GOLDBERG: He's had more experience in doing that than I think any other lawyer.

MR. GREENBERG: I am director-counsel of the NAACP Legal Defense and Educational Fund, which is the largest civil rights litigating organization in the country. It was founded in 1939 by the National Association for the Advancement of Colored People, but since 1956 has been an entirely separate and independent organization, although sharing many of the same goals as the National Association advocates.

The burden of my presentation, which I've submitted in writing, essentially refutes what the earlier speaker from the American Federation for Historical

Accuracy urged upon the Commission, that is, that the wartime relocation and internment which occurred during World War II was an act separate and apart and having no relation to institutionalized racism.

What I would like to demonstrate in summary of the testimony I've submitted is that it was part and parcel of historical racism in the United States, a culmination of it which unfortunately in some respects continues even unto this day.

I might add that I first encountered this question as a law student in 1947 when I worked on briefs involving the Americans at the Tule Lake Relocation Center. Fortunately that litigation was successful, and those who allegedly had renounced their citizenship were able to regain it.

The wartime events, however, did not arise without any background. The relocation was part and parcel of what history of legally imposed invidious racial discrimination and inclusion and exclusion with Japanese and other Asian Americans were subject.

One of the great cases in American legal history is Yick against Hopkins, which described discrimination against the Chinese in San Francisco prohibiting them to operate laundries in wooden buildings which was a euphimistic way of forbidding them from operating laundries at all. And the Supreme Court struck that down as a law which was administered with evil eye and uneven hand.

As early as 1850 California enacted the Foreign Miner's License Tax, which levied a discriminatory tax on Chinese and Mexican. Chinese were prohibited from testifying for or against white persons in either civil or criminal proceedings. And I might add that that is identical to the type of limitation which was placed against black people in the south immediately after the Civil War.

Article XIX of the California Constitution was perhaps a highpoint of discriminatory law. It authorized the removal or segregation of Chinese in official ghettos and prohibited public employment of Chinese where there was employment by California corporations. It was declared unconstitutional, but Article I of the same constitution denied Chinese the right to own or inherit real property and the right to vote.

In 1875 Congress for the first time made Chinese aliens ineligible for citizens. In 1882, the Chinese Exclusion Act suspended immigration of Chinese laborers, and Chinese immigration was totally and permanently prohibited by 1888. It was not until 1943 that the naturalization and immigration prohibitions were repealed, but a yearly quota of 105 was set. And the prohibitory quota continued until 1965.

The history of the Japanese on the west coast was almost identical. Significant immigration began in the 1890s, and as did the Chinese before them, the Japanese

worked in agriculture, railroad, mining and other menial work. By 1909, Japanese comprised over 40 percent of California's agricultural labor supply. But they were limited to working in truck farming, gardening and self-employment serving Japanese communities. With the Chinese precedent, immigration and naturalization restrictions were resorted to.

Thus in 1907, the so-called Gentlemen's Agreement between the United States and Japan restrained immigration, and the Japanese Exclusion Act of 1924 totally excluded all Japanese from entry into the United States as aliens ineligible for citizenship. The Exclusion Act remained in effect until 1952, and it was not until 1965 that Japanese were accorded the same immigration privileges. That by the way casts light on some of the assertions earlier made that Japanese aliens were treated the same as Italian and German aliens and Japanese citizens were treated the same as Italian and German citizens. The Japanese could not become citizens.

The restriction of Japanese immigrants to permanent status as aliens set the stage for discriminatory state legislation. The California Alien Land Laws of 1913 and 1920 prohibited foreign-born Japanese from owning or possessing any legal interest in real property.

The history of public education for Asian Americans on the west coast was very much like the history of public education for blacks in the south. Justice

Douglas, as the Circuit Justice in the case of Guey Heung Lee against Johnson said that the treatment of Japanese and other Asian Americans in California was a classic case of de jure segregation such as that involved in Brown against Board of Education.

There was specific statutory authority created for the establishment of separate schools for Chinese and Japanese children in California. The constitutionality of the provision was upheld in 1902. The separate school provisions were not repealed until 1947.

The wartime evacuation therefore was not an isolated event. It was part and parcel of the consistent pattern of governmentally imposed discrimination and exclusion based on race and ancestry that operated across the board to keep Japanese Americans separate and apart from the rest of our society.

Only Japanese Americans were evacuated and interned as a racial group whose race and ancestry itself made them an enemy race.

Now the Supreme Court of the United States did a great deal to strike down this legislation, much of it was repealed and a large part of that history is behind us. But we are now at a point where I think perhaps one might be in an employment discrimination case under Title VII, that is the point of establishing whether or not there is liability, whether or not there is perhaps not a legal, but a moral concession that we did wrong. And if

that is established the next step is what shall the relief be.

As I understand it, this commission, at this stage in any event, is sitting to decide whether or not there is liability. I would strongly urge on the basis of the historical record, indeed there is, then we should go on to the next step and come to a determination of what the reparations should be.

Thank you.

CHAIR BERNSTEIN: Thank you very much.

May we have questions now?

Mr. Justice Goldberg, I am going to take you out of order because I know you've been putting up with your back all day, and I know it's getting worse, so if the Commission would defer so that Arthur can finish.

COMMISSIONER GOLDBERG: I should apologize, but I'm going through a slipped disc.

Mr. Schneider, you made a statement that you deplored the activities of the staff --

MR. SCHNEIDER: No, no, we applaud them.

COMMISSIONER GOLDBERG: Oh, you said "applaud," I didn't hear that.

MR. SCHNEIDER: Oh, yes.

COMMISSIONER GOLDBERG: I was going to rise to the defense of our staff, which is breaking its neck, a small staff, and doing a perfect job.

MR. SCHNEIDER: Well, if you rise, I rise with you.

COMMISSIONER GOLDBERG: So I compliment you on your statement. You don't need applause from anybody for doing the great work your organization has done.

I would like to say something to one of the greatest advocates we've had in the country in defense of civil rights, who has learned how surreptiously to read while he's not quoting.

CHAIR BERNSTEIN: We're going to turn the lights out the next time!

COMMISSIONER GOLDBERG: We have a problem if we decide reparations are in order, what kind? And I would hope, Mr. Greenberg, on your tremendous experience, that you would give consideration to this question; and file some helpful suggestions. It is a very serious problem, as you heard from members of Congress if you were here, and it would be very helpful if you were to do that.

CHAIR BERNSTEIN: I want to thank you, and I should acknowledge here my appreciation for your willingness to be reordered, but let me see if there are some additional questions.

Dan, we usually begin with you.

VICE CHAIR LUNDGREN: Obviously some of the hot issues in this whole thing is the question of financial restitution or reparations, and Mr. Schneider, you said in support of such an effort that it would be utilized as a deterrent for future actions, that we might be tempted to utilize in some unforeseen circumstance. Do you honestly

think it would be a deterrent that people today would be the ones paying for something that took place 40 years ago? I mean that just strikes me as not a viable reason, there may be other reasons, but is that going to be much of a deterrent in the future that some time the federal government makes a decision for which 40 years thereafter the government will be asked to make good on when most of those decision-makers are long gone and not affected by it whatsoever?

MR. SCHNEIDER: I think one aspect of this that we have in mind in proposing that is that if the Congress were to undertake serious discussions of monetary redress, that would be far more of a coping with the issue that if it just apologized, so to speak, to Japanese Americans without giving consideration to the matter of redress. It would make the consideration of this issue infinitely more real.

VICE CHAIR LUNDGREN: Should the redress be addressed only to those individuals who actually were in the centers or evacuated, or would you include heirs?

MR. SCHNEIDER: Well, it certainly should go to those who were evacuated and interned, and I suppose to the extent to which heirs could indicate that they suffered as a result of the internment, they would have some consideration.

VICE CHAIR LUNDGREN: Mr. Greenberg?

MR. GREENBERG: Well, I really haven't thought

the details of the reparation matters through, as I indicated, but I think there should be a reparation. I think that it would be appropriate in some cases at least for them to be financial. The idea is to make whole people who have been injured by the internment. Some sort of affirmative action program would be appropriate, I think such as those that we talk about in general for disadvantaged groups. But I think there has to be something more than an abstract apology.

VICE CHAIR LUNDGREN: I just want to congratulate you for bringing out the fact that we did have discriminatory laws in the State of California. I've utilized the California Supreme Court decision with respect to interpretation of that constitutional exemption of testimony by anyone who, I believe was over a quarter Oriental, could not testify against a Caucasian.

There was a case, I think about 1880 or something, in which the victim was Oriental and the perpetrator, the alleged perpetrator of the crime was Caucasian, and there were no witnesses, and the victim was not allowed to testify against the perpetrator because of that regulation, and it's something that frankly surprises a great number of people in California that that ever existed.

MR. GREENBERG: As I indicated, that was quite standard in the Black Codes after the Civil War.

VICE CHAIR LUNDGREN: Thank you very much.

CHAIR BERNSTEIN: Judge Marutani?

COMMISSIONER MARUTANI: Mr. Schneider, if I may, with the leave of the Chair, take this opportunity to pay a particular tribute to the American Friends Service Committee. I speak of personal experience having believed in the Bill of Rights and the flag and so forth, and my faith in America was shaken to the very roots. And I must say that the American Friends Service Committee was one of the few organizations, thank goodness, that kept the candle burning in the dark, and for me personally, allowed me to cling, thank goodness, to a belief in this country.

Were it not for organizations such as yours, and we pariahs of society at that time, I'm not at all sure, in all candor, that I could have maintained my faith in this country, and I want to thank you for helping me through that crisis, and I think I speak for many many Japanese Americans in that regard.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: We are all here so something like this won't happen again, but history lives short. Remember 2000 years ago, people were saying Hosannah in the Highest, the following weeks they said crucify him. So we must remember that, regardless of who we are, what we look like, we're in God's image, so remember that; if you do to another person you do it to yourself, and you will be judged for that in the second coming. Thank you.

CHAIR BERNSTEIN: Dr. Flemming.

COMMISSIONER FLEMMING: As a result of the various opportunities that I have had over the years, the two organizations that are represented in such a fine matter here today, are two organizations for which I have developed the highest regard and highest respect. I know that there are many many groups in this country that could pay the same kind of tribute to the American Friends Service Committee this afternoon. Those of us working in the field of civil rights of course feel that we owe a great deal to Mr. Greenberg and his associates for constantly staying out on the cutting edge in issues in the area of civil rights.

I am not at all surprised that the conclusions reached by both of the witnesses, because they are so consistent with the positions they have taken on the basic fundamental issues over the years, and I am very appreciative of Mr. Greenberg providing us with historical perspective from the standpoint of a civil rights lawyer, and that perspective makes it very easy to link up the issue that this Commission has to look at with the other issues that we're looking at constantly in the field of civil rights, and I just feel that this testimony will help us a great deal in our deliberations, and I appreciate it coming from both of these organizations.

CHAIR BERNSTEIN: Senator Mitchell?

COMMISSIONER MITCHELL: Only to commend both witnesses. Thank you.

CHAIR BERNSTEIN: My commendations I'm sure would be superfluous at this point, but you have them anyway, both personally and officially. I think we all appreciate organizations such as yours, particularly in times of stress, and forgive us, at least Arthur and me, for grading you down for reading. Thank you very much for coming.

Our last scheduled witnesses, we have seven who have been scheduled to give individual statements. Will they come forward, please, Dwight Chuman, Mary Kochiyama, Tom Kometani, Nobu Miyoshi, Pat Okura, Paul Sakai and Kinzo Yamamoto.

Welcome, all of you. I'm sorry in a way you're on at the end of the day because it's been a very long day and in some ways a very tense, probably saying better intense day for all of us, which is what these hearings are supposed to be of course.

Again, I welcome you for the Commission and for myself. We have, I would say, about a half hour or 40 minutes. I would like you all to have all day, but we don't have all day, and so I would urge you, if you are making -- if you are talking to the Commission and telling the Commission about your personal experiences to do so from your heart and from your head and not from paper. You don't have to throw them away. Obviously I would not think of insisting on it, but I heard Kinzo Yamamoto this morning, he and I were on the television, and I know he didn't have a clue of what he was going to say before he

started to talk and it was wonderful.

The Commission is here to listen to you, to reach out to you, and not only because of time, but because we really want your eyes looking at us as you tell us your story, so I urge you to do that. I will have to call time if it gets to become too long, because as you know I have to give people the opportunity to leave the room.

So with that shall we begin.

I will begin with you. Would you state your name, please.

STATEMENT OF PAUL SAKAI

MR. SAKAI: My name is Paul Sakai, I am here to speak of my individual experience, my background, I retired from the United States Army in 1969, after 28 years of continuous active service. I retired from the Defense Department in February of this year, and currently I am a volunteer worker for the Legal Resources Division, Department of Social Services, Baltimore City.

For the sake of coverage, adequate coverage and coherence, I will not read, but will glance at my prepared statement. I would like to bring to your attention several things that I would like the Commission to hear, and that is our upbringing. The cultural heritage which our parents instilled in us, and these are significant and meaningful thoughts.

Ideals of duty, honor and country; ideals which

General Douglas MacArthur on many occasions powerfully expressed, and our family devoted their lives to the loyalty of those ideals despite the racisms encountered on the west coast. They taught us to participate actively in civic, church and community life.

So to make my statement short, let me relate to you brief experiences of each member of my family. I am the sole survivor of my family today who is competent to testify before any commission. My father died on April 9, 1942, approximately three weeks before the family was moved from Seattle to the Puyallup Assembly Center. What took me by surprise was the letter he had written to me in mid-March of 1942 when the Western Defense Command announced their exclusion proclamation. He wrote a letter to me in English, while I was stationed at Ft. Bragg, North Carolina. This was a very emotional letter. He had never written me any letter, and a letter in English caught me by surprise.

He was deeply concerned, worried, about the future of the family, and he had asked me in this letter if I would contact an old family friend of his from Nagasaki, Japan, who was a prosperous florist in Columbia, South Carolina.

Before I could respond to him, he passed away; and that is one experience I shall not forget -- and I'm quite sure that the Executive Order No. 9066 had a great deal to do with his worries, and he died at a comparatively

young age of 54.

Now as far as my two sisters are concerned, Esther Hagiwara and Ruth Matsuo, they were very active in the Japanese American Citizens League, and they were shocked and felt depressed in their letters to me while I was fighting in North Africa. They could not understand -- why I was fighting in North Africa, and they were incarcerated behind barbed wire in the desert and sage brush country of Idaho. So I did save a number of their letters which I have re-read before appearing before this Commission.

As far as my brother is concerned, he left the relocation center in 1943 to volunteer for the 442nd Regimental Combat Team. In early 1960 we found signs of depression, and today he is a complete recluse, withdrawn from society, and will not seek any assistance from friends.

As for my mother, she spent more than three years in the relocation center, and I would like to relate just one incident which I was an eye witness to. After six months of hospitalization, starting in Tunisia and terminating at Brigham City Bushnel General Hospital, I was allowed to visit my mother in uniform at the relocation center. When I arrived -- and this is properly documented -- I had furlough papers, and when I arrived at the gate the military police on guard came to port arms with his rifle, stopped me, and asked me to state my business.

I informed him that I was on furlough visiting

my mother who resided in Block 7 -- I forget the barracks number -- but that address I remembered for a long time. Because the relocation center was my home of record while I was overseas.

There is one thing, I saw at the camp. I saw how they lived; they had no privacy, but my mother did have a cheerful outlook. But as the Japanese would say she had a "shikata ga nai" outlook -- "can't be helped."

The one thing that I would like to read, just one sentence of a poem she wrote. This poem was sent to me by the Baptist Church, and it reads as follows, and I quote: "A man sets out to make a home, though desert be the scene; before his eyes there rises, oh blessed sight."

Now, in conclusion, I pray that this Commission, established by Congress, will carefully review our statements and testimony, and recognize the arbitrary abuse of constitutional rights by our wartime leaders. That the Supreme Court's decision legalizing evacuation and incarceration, on racial grounds, be reversed, and some form of monetary compensation be made to victims of evacuation who are in need of medical and financial assistance today. Because we have been brought up as a proud group of people, we do not seek charity. And I feel strongly that some kind of fund that could take care of those victims who are in my age group, 50, 60 and 70 years old, are given assistance and care. I seek no compensation.

Thank you very much.

CHAIR BERNSTEIN: Thank you Mr. Sakai.

Will you state your name, please?

STATEMENT OF DWIGHT CHUMAN

MR. CHUMAN: My name is Dwight Chuman, and I am a third generation Japanese American, and very proud of it.

The primary purpose for my appearance here today is to share with the Commission the results of a nation-wide survey of Japanese American public opinion on the long neglected redress question.

The response to the survey was overwhelming. We had been advised that a passively administered questionnaire such as ours would yield, at best, a 1 percent response. But when we completed the tabulation of the results two weeks ago on the 4th of July, we found that more than 16 percent, or 3749 of our 23,000 readers of the Rafu Shimpo newspaper had considered the issue of enough import to take the time to fill out the study and mail it back to us.

We can conclude from the response, which is unprecedented in the 78-year history of our publication, that Japanese America remains haunted by the wholesale violation of the constitutional rights and the internment of four decades ago. But it is still ready to demand a just resolution of that violent injustice despite a century of racist treatment in this country.

Our newspaper printed a survey in both Japanese

and English to enable all those victimized, especially our rapidly dying off Issei first generation to speak for themselves on this issue. Perhaps the most important misconception we feel this survey sets aside is rhetoric implying that our community is deeply split on redress. Three thousand five hundred and seventy five respondents, or more than 96% answered that they felt Japanese Americans should seek redress; and 3,350, or 89% said an appropriate form of reparation is direct monetary payments to individuals affected by Executive Order 9066, or their immediate heirs.

About a third, or 32% also favored the establishment of a community trust fund using reparation money for senior citizens housing and community service programs for our elderly.

Only 13% indicated they felt a presidential policy was sufficient redress of their grievances. One hundred fifty five respondents or 4.13% said they opposed redress, citing reasons ranging from the fear of racial backlash to opinions that no wrongs were committed.

Japanese America has delivered its mandate. In concluding my remarks, I cannot emphasize more how essential a role this Commission has in helping the community itself understand fully what happened to it during the camp years. Four decades have not healed many of the damages inflicted from within our community itself.

I ask specifically that you command your staff to

examine documentation available in National Archives which show the Japanese Americans in the camp may have been subjected to scientific programs of behavior modification, rumor experiments, and that the relocation centers may have been laboratories for government studies on the control of population of defeated enemy nations; that conditions for euthanasia to become a regular practice in some camp hospitals, that members of the Japanese American Citizens League may have served as government informants prior to and within the camps, and by doing so exacerbated dissension and suspicion among internees. Please tell us why members of the JACL, our only nation-wide organization, became the targets of violence in the camps. And help us to understand why the JACL, which discouraged court challenges to the legality of evacuation in the camps, documents indicate that JACL national secretary, Mike Masaoka in 1942 publicly characterized Minoru Yasui as a "self-styled martyr out to do nothing but capture headlines."

Perhaps staff can determine whether circumstances had a chilling effect on other Japanese Americans exercising their rights as citizens.

We ask the staff to help us understand why the JACL national secretary in March of 1942 recommended that Japanese "be put into labor concentration camps to be farmed out to large sugar beet combines as cheap laborers, that Japanese internees should be brought in for road making,

and that Japanese be branded and stamped and put into supervision of the federal government."

I implore this panel, especially in the light of the convoluted reasoning contained in the testimony of the Americans for Historical Accuracy representative today, to fill these gaps of understanding for the Japanese victims, their children, and the rest of the citizens of this nation.

Thank you.

CHAIR BERNSTEIN: Thank you very much, Mr. Chuman.

The next witness is Tom Kometani from Warren, New Jersey.

STATEMENT OF TOM KOMETANI

MR. KOMETANI: Thank you, Chairperson Bernstein, and Commissioners.

My name is Thomas Yoshio Kometani, American, Warren Township, New Jersey. I'm a chemist for a large research organization. When I first thought about testifying before this commission as a child who experienced incarceration during World War II, I called my mother to get some specific dates and facts. Her immediate reaction was quite disturbing to me. I jotted down some of her comments during our conversation.

"Why do you want to bring all that up again?

It's over. Forget about it.

You are going to stir up a lot of bad feelings.

Besides, it is painful to talk about.

Be very careful what you say."

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That last statement distressed me the most. Forty years after the fact she was still cautioning me about the negative consequences of being outspoken.

Well, America has changed in the last 40 years in many ways, and so have I. It's time to speak up.

As the second of four children born to an Issei father and a Nisei mother, I was a uninhibited, well adjusted youngster who did well in school. We lived in Auburn, Washington where my parents ran a service station. I loved my country and I took great pride in being an American. I sincerely pledged allegiance to the flag each school day and saved my pennies to buy war stamps to help my country.

I first learned that I was considered an enemy of my birthplace when I was seven years old. My father told me that we were going to be imprisoned by the U.S. government because of our Japanese ancestry. I can recall the terrible feeling of betrayal when I learned that all people of Japanese ancestry were being treated the same way. Even at that tender age I recognized it as false imprisonment. My parents cautioned us to remain silent about what was going to happen to us, because talking too much can get us in deeper trouble.

In the spring of 1942 we were taken by train to Pinedale Assembly Center near Fresno, California. My father was right about us being prisoners. We were guarded by soldiers with rifles on the train. The camp had a

high fence around it with guard towers occupied by soldiers with spot lights and guns. I was convinced that everybody on the outside really hated us. As a child I certainly was in no position to protest this imprisonment. I remember feeling less than human in being subjected to barracks, straw mattresses, mess halls, community toilets and barbed wire. One consolation for the kids was that there were no schools in Pinedale.

In the fall of 1942 we were taken to Tule Lake, California, which was to be our permanent camp. Except for the climate, Tule Lake was just like the camp we left. However, this camp had schools which were in operation approximately two months before we arrived. I remember there was a lot of confusion and I didn't really learn much in 3rd grade.

In the fall of 1943 we were moved to another camp in Heart Mountain, Wyoming because Tule Lake was to become a segregation camp for people wishing to go to Japan after the war. While in Heart Mountain, I experienced a disruption in family life when my father went to work on a farm in Illinois. I recall the lonely and difficult times we went through during the six months of his absence.

In October 1944 my father returned to take the family to Marengo, Illinois. By that time we had adjusted to camp life and were quite fearful about the hostilities awaiting us in the outside world.

The emotional and psychological damages which I

sustained during the most formative years of my life was not apparent until we returned to society. The war was far from over and the hostility of some Americans toward the Japanese Americans was quite intimidating. The stigma of being imprisoned as an enemy of my own country was to stay with me for decades to follow.

I felt that I was not an American anymore and that if people had their way they would ship me to Japan. When kids called me "Jap" I was ashamed of my heritage. If only I was white so I can be a good American, I used to think.

During those years I found that I could get along well if I was passive, quiet and agreeable. I was afraid to be assertive for fear that I would not be accepted. After all, how else was a "foreigner" supposed to act? There was an erosion of my self-confidence. The fact that people treated me like a foreigner only served to reinforce my own doubts about my Americanness. At best, I believed I was a second-class citizen.

Unconsciously, I imposed severe limitations on myself and grew up through my teens and twenties with many inhibitions. Consequently, such behavior for a young person starting a career was not conducive for advancement in the competitive work environment.

It has been a life-long struggle to change my behavior from passive to assertive. At age 46 I feel that I have finally overcome the damages I suffered during

those crucial years of my childhood.

I submit that the incarceration caused the retardation of my career goals by about ten years. The basis of my claim include the following:

Abrogation of seven articles of the Bill of Rights.

Defamation of character.

False eviction.

False imprisonment.

Emotional and psychological damages.

Damage to ethnic identity.

Disruption of family life.

Disruption of education.

I am seeking restitution for damages which were perpetrated against me by the U.S. Government during the spring of 1942 to the fall of 1944. It is my intention to donate my share to a community trust fund for all Americans, regardless of race, creed or national origin.

I respectfully remind this commission that you are empowered to help insure that what I experienced in 1942 will not ever happen to another child in this country.

CHAIR BERNSTEIN: Thank you very much.

May we proceed with the next witness, and will you identify yourself please. Would you speak into the microphone.

STATEMENT OF MARY YURI KOCHIYAMA

MS. KOCHIYAMA: Madam Chairperson, Members of the Commission, my name is Mary Yuri Kochiyama, CJA member, New York City; born and raised in San Pedro, California,

spent six and a half months in San Anita Assembly Center, two years in Jerome Relocation Camp, Arkansas.

On December 7, 1941, around 11 a.m., three FBI men came to our home and whisked away my father without an explanation. My father had just returned from the hospital the day before following an ulcer surgery. It was several days before my family learned that he was taken to the Terminal Island Federal Prison.

Because of the seriousness of his illness, my mother frantically called numerous government officials daily requesting him removed to a hospital until he was out of danger. A few weeks later he was finally moved to the San Pedro Hospital where merchant seamen, injured in the South Pacific were also being taken. He was placed in the same ward as they, only around his bed, enclosed by a curtain sheet, was the sign "Prisoner of War." Because of the taunts of the seamen, my mother had him removed to a private room.

On January 13th my two brothers, Arthur, 23, and my 20 year old twin brother Pete and I were allowed to see our father for the first time since he was apprehended. My twin brother had dropped out of UC Berkeley and immediately enlisted, despite my father's incarceration. He came back proudly wearing his uniform for the emergency visitation. On seeing our father what startled us was not so much his emaciated frame, but how greatly in such a short time his mental condition had

deteriorated. He mistook my uniformed brother for a guard and would not believe it was his own son.

We could only surmise what he had undergone during the interrogation, remembering too an Issei inmate had committed suicide in prison.

A week later my mother was notified that my father would be released to come home. We could hardly believe the good news. He was brought home in an ambulance on the evening of January 20th, escorted by a nurse. We were shocked that he could not seem to speak, only make gutteral sounds, did not seem to be able to see or hear. We could not communicate with him, nor him with us.

Our short-lived joy and relief for his homecoming was shattered when the next morning we were awakened by the nurse who informed us he had passed away. Within a few hours the FBI called to say that anyone attending the funeral would be under surveillance. But friends did attend the funeral, and sure enough the FBI were at the funeral parlor door.

Thirty-nine years have elapsed. We have all grown, we have had time to think; from apolitical naive provincials, we have become more conscious of racism's impact on American policies, both domestic and foreign. And we have also learned the buried history of ethnic people's struggle.

Each nationally oppressed group, victims of dispossession, dispersment and dispowerment by the U.S.

Government has a responsibility to expose their own grievances that the common denominators that generate racism and hate, that creative hysteria and rumors that ramify inequities and injustices, that validate, culminate and climax into concentration camp experiences, can be obliterated. We Japanese in America must speak up now. We are not just fighting to win monetary compensation for ourselves. It is a moral duty, that this awesome unpredictable time in history to fight for human rights, human dignities, and human enhancements when constitutional avenues for basic needs are dwindling and being modified.

Much has been said about great American traditions, but there is a world of difference between lofty pronouncements and actual practices. Violation for ethnic and the poor have never halted. This is our responsibility and yours. Does money really tarnish justice? Injustices sully justice. Reparation is a just restitution in a society such as this.

May you, the Commission, utilize everything in your collective sensitivity and political understanding to conduct an investigation and reach the conscience of Congress that redress will set a precedent of justice that will be historical.

CHAIR BERNSTEIN: Thank you very much.

Will you continue, please?

STATEMENT OF NOBU MIYOSHI

MS. MIYOSHI: Madam Chairman and Members of the

Commission, I appreciate this opportunity to present my concerns. My name is Nobu Miyoshi.

All of us who were torn from our physical and cultural bases have been damaged. Restoration of self worth of the Japanese Americans is critical at this time.

I have become interested in research on the consequences of the evacuation and camp experiences of the Issei and the Nisei and the implications they have for their descendants. This desire grew out of nearly 25 years of experience in family therapy, which includes the position of Director of Family Therapy at the Department of Psychiatry, School of Medicine, University of Pennsylvania from 1968 until 1977. The formulations advanced under the Contextual Approach by Ivan B-Nagy, family psychiatrist, has had a special appeal. To put it into the simplest terms, Contextual Approach means that an individual in difficulty can be understood and treated in the context of his or her own family legacies. He and I worked closely on clinical situations for several years along with intense consideration of the Japanese American experiences associated with relocation and internment.

To quote from his unpublished material, Dr. Nagy says, "The ideal goal of a just society requires a constant struggle for the acknowledgement of the merits of all of its citizens." Merits in this sense mean those legacies that originate from one's own background of family, ethnicity, religion, race, and so forth. Merits

also include the concern and effort that is put into the "mandates of posterity." In other words, when one is in a position to see merits in parts of his or her background, the merits can be translated into solutions to meet the needs of future generations.

The point to be made is that the Japanese Americans have been thwarted from using their merits and participating in the society chosen by the Issei, with an adequate sense of entitlement.

What are the merits of legacies that have come down from the Issei? They brought from Japan a heritage of many values highly regarded by American society such as hard work, stress on education, family solidarity, and so forth. Other merits include the fact that the Issei chose the United States as a place to raise their families. They produced law-abiding, responsible, ambitious citizens. The Nisei, in turn, identified with their parents in essential ways and they were jointly struggling to develop their stake in America when World War II and the Relocation and Internment came along. Suddenly a legacy of injustice was created for them. Although innocent, they were treated as criminals in need of incarceration and hounded before and during camp by various levels of society preoccupied with an obsession to impute collective guilt on all Japanese Americans. Those desirable merits were obliterated under the all-encompassing question over disloyalty. There was nothing that an individual Issei

or Nisei could do to even minimally alter the tide of injustice.

It is mostly the Nisei who are now survivors of the dislocation. The devastation of the injustice has become compounded with time. They have been left alone with this.

How have the Nisei lived with this unresolved injustice? There are those who now state that the Nisei are still paying the price of impaired physical, mental and social conditions. However, as a rule, they have not called attention to their dramatic symptoms or circumstances. Instead, what they have revealed has been a stoical determination to cope with challenges in their existence. This has given many members of our society a false understanding of the Nisei's post-evacuation adjustment.

Those Nisei who can verbalize their reactions say that a sense of "shame" hangs over them which cannot be explained even to their own children. The Nisei's entrenched and alarming silence bears testimony to the unspeakably excruciating frustrations and irresolvable pain borne by them. Irresolvable because it is not a matter of the Nisei's forgetting or forgiving what happened to them, as it is a matter of society's correcting the injustice. Perhaps their situation can be compared to an innocent prisoner released into society after serving time but not ever having the injustice of the incarcerated officially acknowledged. That individual does not feel society's approval to participate as an unencumbered citizen.

A frequently expressed desire is that a correction of the injustice be officially entered into the records through Congressional action. For some individuals this alone is considered to be sufficient to regain their sense of worthiness and wholeness in the eyes of society.

Another insignificant and undiminished burden carried by the Nisei today is related to the way their parents were hurt. It is now recognized that the Issei was the most injured group. I have observed that many among those Nisei who experienced psychiatric difficulties associate their problems to the suffering of their parents. Undoubtedly this is associated to the degree of responsibilities felt by the Nisei in their fileal obligations to their parents.

What implications do the consequences of the legacies of injustice have for the Sansei and the generations succeeding them?

From the viewpoint of the Contextual Approach, the situation is creating an imponderable condition of split loyalty conflict wherein the Sansei are given a choice between self-diminishing alternatives. If a Sansei decides to invest his or her loyalty on the side of parents or grandparents who were seen as opponents of society, the Sansei then shares the invalidation of merits that previously substantiated their worth. The Sansei in this position feel vulnerable. They wonder if justice would be administered in their behalf since the positive

qualifications of citizenship of their parents were ignored in the fact of their ethnicity.

On the other hand, if the Sansei decide to align themselves with society and oppose their parents and grandparents, by accepting relocation and internment as part of the exigencies of the war, such a denial of their sense of worth raises difficult questions about identity.

It would be difficult for the Sansei to regard their democratic society as just until a was is found for them to express their allegiance in an unconflicted way and in a context of amalgamation of merits from their dual heritage. It also places limits on their ability to respond adequately to the requirement of posterity.

The following recommendations are made toward the restoration of self worth of the Japanese Americans through the closing of the gap of allegiance alternatives and reaching fulfillment of citizenship entitlements:

1) A gesture be made by society through the Congress of the United States to repair the collective injustice imposed on the Japanese Americans through a public statement as well as through some monetary settlement.

2) A research project be established to explore the nature of concerns affecting the Nisei and their children and the kind of help to which they can respond. The methodology suggested here is the Contextual Approach which is uniquely suitable to the promotion of Nisei-Sansei communication. In an atmosphere of trust mobilized

by facilitators, the Sansei can be in the best position to assist their parents with their silent suffering and internalized conflicts. This in turn would provide the Sansei with special merits that can be passed down to their children.

3) A design be made for creative work with the Japanese American families to deal with their accumulated grief, loyalty issues, assessment of legacies of merits, screening for those merits that can best be used to meet the requirements of the younger generation.

CHAIR BERNSTEIN: Thank you very much.

Mr. Okura.

STATEMENT OF PATRICK OKURA

MR. OKURA: Thank you very much, Madam Chairperson, Honorable Members of the Commission.

My name is Kiyoshi Patrick Okura. I am presently employed with the National Institute of Mental Health, located in Rockville, Maryland. I am the staff director for the international program at the present time, however, I served as the executive assistant to the director of NIMH for a period of seven years, (1971 to '78).

I was born in Los Angeles and spent my early childhood in Wilmington, California where I attended grade and high school. I then attended the University of California at Los Angeles, UCLA, (1928 to '35). I will skip my biographical material because of the press of time and you have it in my written statement.

From 1939 to 1942 I was employed by the Los Angeles City Civil Service Commission as a Personnel Technician. I happened to be the first Japanese American to be hired by the city of Los Angeles in any kind of an administrative capacity. There were 20,000 employees working for the City of Los Angeles in 1938 and 50,000 of us Japanese Americans Nisei living in that particular city. In the three and a half years I received two promotions and was well launched on my career in the personnel field.

Then came World War II and Pearl Harbor. I was very conscious of the fact that possibly my parents might be interned as they were aliens or "enemy" aliens since we were at war with Japan, but never did I dream that American citizens, regardless of their ancestry, would be incarcerated without due process of law. I felt that probably hearings would be held as they were in England, to determine the plight of Americans of Japanese ancestry.

My father, James Momoto Okura, who was a very good friend of Mr. Nakahara whom you just heard about, was arrested by the FBI on the night of December 7th at approximately midnight after the Federal Agents had ransacked his home looking for documents and other articles that might prove that he was a dangerous spy. My father happened to be a Veteran of the Russo-Japanese War of 1904 and '05, and was decorated by the Japanese Government for his outstanding record with the highest Medal of

Honor given by that country.

He was interned and labeled "internee of war" and held for a period of approximately three years. He came to the United States in 1906 following the Russo-Japanese War and settled in Galveston, Texas, and became a rice grower for several years. He then returned to Japan in 1910 and married my mother and brought her back to Texas to live. However, my mother did not like the rough life of living on a rice farm, so they decided to return to Japan and left Texas to go to Los Angeles to catch the boat to return home. While in Los Angeles my mother learned that she was with child and decided to remain in Los Angeles. I happened to be the first child and was born in 1911 in Los Angeles, and along came seven other children, four boys and three girls, so my mother never did get back to Japan for 37 years. It was in 1953 that she returned, however, the impact of four years of incarceration at Jerome Relocation Camp, especially when her husband was held as an internee of war for over a period of three years had had its toll. She became ill on the way home from Japan and was able to only remain alive for two weeks after her return, and died at the age of 65.

During World War II, I had three brothers who served in the U.S. Army. The youngest was killed in action while rescuing the Texas Lost Battalion with the 442nd Regimental Combat Team. He had volunteered from Jerome Relocation Center. He was 21 years of age.

Another brother was drafted into the Army before Pearl Harbor, and served six full years as a dental technician. The other brother also volunteered out of the Jerome Relocation Camp for military intelligence work and served for three full years.

There's been some talk about quiet Americans and so on. My life has been somewhat different, I think, than the average Nisei in that I was a very strong advocate for equal rights since my freshman year at UCLA when I learned that all the things that were available for everyone else was not available for me when I entered this institution. I spent seven years receiving my education in Psychology, and happened to be in the very first graduate class (1935) that ever graduated from that school.

Following Pearl Harbor we were all placed under a curfew and restricted to within five miles of our residence. Since I lived in Wilmington, California, which happened to be about 25 miles from Los Angeles, the city hall where I was employed. I needed a special permit to travel to work each day. Practically every single day I was stopped by self-appointed vigilantes and was questioned and harassed when I was traveling outside and asked why was I traveling outside the 5-mile limit, and why I was out after curfew hour. For a period from December to April I was continuously harassed by the police and self-appointed authorities at home, at work

and on the streets. The harassment continued as follows, and I want to quote from the Nisei The Quiet American, which was written by Bill Hosokawa to save time. If I told it I would spend too long a time because I get very emotional about it, and would insert a lot of things which probably are not that important, only to me, so I want to quote from his book:

"The Nisei did not have to go looking for harassment. The experience of Kiyoshi Patrick Okura is a startling example.

"Early in February 1942, shortly before Executive Order 9066 was issued by the President, Drew Pearson, a well-known columnist in this city of Washington, D.C., charged in one of his broadcasts which appeared on the front pages of the Los Angeles Times and Examiner the next morning 'that a Japanese American, passing himself as an Irishman named K. Patrick O'Kura, had wormed his way into the Los Angeles City Government, and had familiarized himself with the city power and water system, and had installed a ring of fifty saboteurs within the Bureau of Water and Power who were poised to blow up the entire system when the word came.' Like so many loosely made charges, Pearson's 'revelations' held a measure of truth. Okura, jokingly had been called the Japanese Irishman by his friends. He had conducted examinations among applicants for jobs like cable splicer, lineman, and reservoir keeper in the Bureau of Water and Power.

He and his wife Lily were evacuated to the assembly center at Santa Anita race track, and then relocated to Boys' Town near Omaha, Nebraska, where he was employed as a psychologist." That is the end of the quote that I was quoting.

I had the distinct privilege of working with the saint-like Father Flanagan, and that's what restored my psychic and my mental stability; and while I was there I had told this story to Father Flanagan and he in turn called his law firm of Monsky, Grodinsky, Mauer and Cohen, and asked Mr. Monsky to do something about it. And it was his suggestion that I sue Drew Pearson $1 million for libel. However in 1943 -- this was in early '43 -- we were not doing too well in the war effort, and so Mr. Monsky, who was then president of B'nai Brith, decided that we should wait. Unfortunately he became ill and by the next year when we wanted to follow this suggestion, he had passed away, so nothing was done and the statute of limitations evidently set in, so I have never been able to follow through.

At this point I would like to insert my feelings about life at Santa Anita. We talked about what camp life was about, but let me give you a little glimpse of what I felt. In spite of my resentment and bitterness of being attacked and labeled the most dangerous Japanese American, and having been herded like cattle into Santa Anita race track -- I happened to be in the first batch and my number was 69, and then Lily and I were the last

And over a period of three years some fifty Nisei had entered the Los Angeles City Civil Service system and were working in various departments.

"When Pearson's charges were published in the Los Angeles newspapers the next morning, someone on Mayor Bowron's staff apparently became very nervous. Okura received a telephone call from the Mayor's office suggesting that it might be a good idea for him to resign, thus setting an example for the other Nisei on the city payroll. Okura demanded to know on what grounds his resignation was being sought. The official replied delicately that the resignation of all Nisei might save the city a good deal of embarrassment. Okura then declared he had done nothing wrong and would not resign, reminding his caller that the proper procedure for discharging a civil service employee was to bring charges before the merit board.

"A few days later Okura was summoned to the Mayor's office and Bowron himself asked for Okura's resignation. Again, Okura refused. When word spread, the entire staff of 25 in Okura's department announced they would resign en mass if he were fired. Soon, however, it became apparent that evacuation orders would be issued shortly, and so Okura asked for and was given a leave of absence for the duration of the war. However, after the war this was denied. Although his skills were needed badly, and needed by federal agencies, word of the furor apparently destroyed his chances for government employment.

He and his wife Lily were evacuated to the assembly center at Santa Anita race track, and then relocated to Boys' Town near Omaha, Nebraska, where he was employed as a psychologist." That is the end of the quote that I was quoting.

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two Japanese Americans to leave the west coast, because we did not leave Santa Anita until November of 1942, after all 19,000 and everybody else had been placed in these so-called relocation camps.

I found myself very worried and concerned about the chaotic and confusing situation that we found ourselves in. I had decided that I was going to sit out this war and not lift a single finger because of how I felt at the time. However after the initial shock and anger wore off, I found myself, with the help of others, organizing a self-government program to assist the WCCA administrator. We divided the camp into eighteen districts; we had an election, we had representative government, and so on; and I ended up finding myself as chairman of this particular self-government council.

About the second or third month of our incarceration, a military guard ordered a crack-down on weapons, and went through the camp picking up anything they considered dangerous, kitchen knives, wood carving tools, scissors, crochet needles, and hot plates mothers were using to warm milk for their babies. As a result, a riot in the camp followed this episode. I, as council spokesman, had to approach the administration voicing our protest, and was able to get the confiscation order tempered as well as having the administration set up a 24-hour milk station for mothers with babies.

However, as a result of all of this, I was attacked

by a small group, but managed to escape serious bodily harm. Besides Drew Pearson's attack, Congressman Dies, if you will recall of Texas, in his Unamerican Activities Committee Report, devoted a 2-page report on my personal integrity, my character and my unpatriotic activities, all by innuendo, guilt by association; and because of my father's record and activities. However, when I checked in with the FBI, the Army Intelligence, Navy Intelligence they seemed to have no record of any of these accusations.

As a result of all those accusations and the publicity that followed, the United States Civil Service Commission for a period of approximately 20 full years, denied me the opportunity to seek federal employment. I was repeatedly told that I was ineligible for federal employment. It was not until 1970 that I was given an opportunity to be considered for federal employment, and this was primarily based on my 30 years of professional experience on a local level and community level and also because of a very liberal and sensitive director of a Federal Agency.

I can truthfully state that my professional career was set back 15 years because of Executive Order 9066, and the incarceration that followed. At age 60, when I was able to obtain the level of my professional career, which should have happened when I was probably 45 years of age under normal conditions.

Just a word relative to some of the psychological,

psycho-social aspects of the incarceration and the consequences. And I have submitted for the record three pages with enough bibliography to substantiate some of the research results not so much on our own group, but on other victims.

During the past 30 years psychologists, psychiatrists and other social scientists have been doing research on the psycho-social consequences of incarceration, victimization and violence. There is adequate and ample evidence to show that certain forms of punishment, interrogation procedures, and deprivation of liberty have long term adverse effects on the mental health of the individuals concerned. And I won't go into some of the clinical aspects that I have quoted.

The general conclusion is that long-term adverse effects on mental health, possibly appearing after a latent period, this should be expected in victims of serious incarceration. The World Health Organization made a number of studies and has recommended that this kind of expectation should be taken into account when the assessment of any kind of physical psycho-social disability is considered, and we're talking in terms of the reparations and things as a result.

I'm sure if the Commission had time to listen to the testimony of many of my peer groups that were incarcerated, that they would find a tremendous amount of psychological damage that was done to our group. You heard some of it today in the testimony of those before me.

I would just like to offer the following suggestion in a very brief form, and I have outlined it, but I will not take the time, that possibly a suggestion for the recommendation of the Commission would be in the form of reparations of a national trust fund to be administered by Japanese Americans of a representative group, you can call it some kind of a commission of itself, to look at a number of issues:

1) The Issei and Nisei older aged group are in need of a tremendous amount of medical and psychological services; I think this is one area that needs to be explored.

2) That opportunities for research of the needs of Japanese Americans, as well as some of the needs of other Asian Americans be given an opportunity under this trust fund.

3) Provide educational and employment kinds of stipends for needy Japanese Americans and others; provide opportunities for a community support system that can be established to maintain our ethnic heritage and our ethnic communities.

There are several others that I won't take the time. And I want to thank the Commission for this opportunity.

CHAIR BERNSTEIN: Thank you, Pat.

And last, but certainly not least -- you've been very patient Mr. Kinzo Yamamoto.

STATEMENT OF KINZO YAMAMOTO

MR. YAMAMOTO: Thank you, Madam Chairman and members of this Commission.

My name is Kinzo Yamamoto. I have earned a doctorate in the field of sociology at Penn State. I am employed in a research capacity in the U.S. Public Health Service, and due to the time I think I will not read from my prepared text, but, rather, say it from the heart.

When the War broke out, as everybody to the left of me on this panel would all agree, and those of the rest of us in the room, that many things in our homes and our businesses were declared as contraband; and what we could not sell or pack, were taken away, and they were not seen again or were we fully repaid for them.

I'm sure that most of us who were put in the assembly centers felt as if part of us had died as we looked back at the gate and the conditions there, and were as terrible as people have described it.

But when we moved to other places, i.e. relocation centers those of us who were young -- and I was only 11 at the time and 14 when I came out -- as I think about it, we were probably naive enough in our age group, to be protected by nature, that we did not feel the abuses that Pat Okura and others felt who were older, because we were flexible enough not to know what was going on.

But it was obvious that, one day while in the Gila River Relocation Center when a box came, containing a pillow and blanket, that that was part of our belongings that the federal government promised to store. Another

box that contained nine fishing poles, because we had sold fishing equipment in our fishing market, and we had stored these poles as the government had asked us to -- there were seven new ones and two old ones, and the only ones that were in the box were the two old ones. And they were broken. Can you imagine the chagrin of an 11 or 12 year old seeing his pole broken?

Well, eventually we were released from camp, but I remember one incident there that -- we used to throw rocks at the sound truck that -- those of us who are old enough to remember, FDR's classical "My fellow Americans, step forward and do not resist the draft," and we would throw stones at that truck.

But anyway, eventually we did leave, and I suppose there was an exhilarating feeling that we didn't know what it was, but if we were to tap our conscience it must have been the realization that we were now <u>free</u>. And I was asked how I felt on leaving the camp, and I didn't know what to say, I guess I felt the return of freedom.

I think I should now like to read my recommendations.

1) I believe an injustice was done by the U.S. Government by the internment of the Japanese American people. In addition, human rights were violated, which should have been monitored more closely by the authorities. While I feel that these transgressions cannot be fully expunged, I request that the federal government provide

monetary compensation that is commensurate with the indignities suffered at the level set by the American conscience, to serve as a catharsis for both the Japanese Americans and the American people.

2) I recommend that an amount of $200 million be established in a public trust fund for the purposes that Pat was talking about, for education, to incorporate the Asian prospective into American history, hopefully that part of the funds could be used to redraft a broader view of thepolyglot nature of our Americna heritage which can be introduced into our schools, and amend the parochial view that civilization and its amenities came only across the Atlantic.

3) Whatever the collective wisdom that should arise from these hearings, I implore this Commission to act in reasonable haste, least those who suffered the most go to their Maker without the certain knowledge that American cares.

I thank you.

CHAIR BERNSTEIN: Thank you.

I think that this panel has demonstrated what most of us, I guess know. Many of us had read and studied, both the history of this period and invidiual stories. This panel demonstrates, however, that there is no substitute for human exchange.

I want to thank you from the bottom of my heart, and those of my Commissioners who are sharing with us

intimate stories of the facts that I know are painful. I do think they are necessary for a full and complete airing of the events.

I would like to turn to my fellow commissioners for one last round of comments or questions before we complete the day's hearngs.

Judge Marutani?

COMMISSIONER MARUTANI: The only comment that I might make would be directed to Mr. Chuman, one who -- I understand you're an editor at the Rafu Shimpo.

MR. CHUMAN: Yes, that's right.

COMMISSIONER MARUTANI: And I understand your bitterness, but I'm a little bit troubled by the fact that in the course of your discourse in expressing bitterness, there are certain names that you failed to mention, which places to me, to be quite candid with you, the perspective of your statements.

Not once did you mention the name DeWitt. Not once did you mention the name Gullion; not once did you mention the name Bendetsen; not once did I hear the name Secretary Knox; not once did I hear the name Stimson. And I find by your omission a perspective of your statement, and I want to tell you that in all candor.

MR. CHUMAN: If I could reply to that, there is no intention to leave them out, but in the light of Ms. Baker's comments, I amended my testimony to address this Commission to tell the full story of the occurrences

within the camps and in our community, and that's where I was directing my comments. And I think that if people like Ms. Baker do incorporate the actions of certain leaders within our community against a redress movement, I think that is also counter-productive, but I in no way meant to remove from guilt these people that you just mentioned now. I think that is a larger duty of your commission to identify the roles of these people.

CHAIR BERNSTEIN: Father Gromoff?

COMMISSIONER GROMOFF: I just want to thank the witnesses for their comments.

CHAIR BERNSTEIN: Dr. Flemming?

COMMISSIONER FLEMMING: I feel that the Chair of our Commisison has stated in a very meaningful way what your testimony means to each one of us -- certainly to me.

I don't know how else we could ge the feel of the situation other than by listening to the kind of testimony that was presented by the seven members of this panel.

I've noted that a number of the witnesses on this panel have referred to the possibility of the establishment of a trust. I think that's one of your suggestions, I appreciate it is not exclusive by any means. I hope you will continue to give consideration to that, and if you have ideas or amplifying your suggestion, both as to how it might be established, how it might be

administered, the purposes that it might have in mind, that you will share those with us.

CHAIR BERNSTEIN: Senator Mitchell?

COMMISSIONER MITCHELL: I can only say thank you, and I do hope that all of your statements went out over the airways today, because those statements made to the American public will make the job of this Commission much easier. I do hope that you won't stop with your present testimony, but will give us any further guidance on how we reach conclusions, not on the wrong committed, but on the reparations which should be recommended.

MR. YAMAMOTO: Madam Chairman, may I interrupt you for a moment.

In my haste, I forgot to mention I would like to submit for the record for this Commission, the newspaper articles and clippings regarding my father's ouster from Great Meadows, New Jersey; it's well documented and I apologize for butting in.

CHAIR BERNSTEIN: Not at all, by all means it will be accepted into the record.

I would, as a matter of fact, urge all of you on this panel, as well as our greater audience, to stay in touch with the staff of the commission as we continue our hearings and as we continue our deliberations. We would urge you, as Arthur said, and as Hugh said, to file additional documents, particularly on this thorny subject of an appropriate type of reparations, redress, and specifically

how it should be administered. If you have such thoughts, and I'm sure many of you do, I think that we all would welcome those suggestions as well as others.

I would also urge you, if you are in communities, any of you, where we're going to be appearing, to assist others in the communities who would like to come forward to tell their stories as well.

I expect that the format in the field hearings will perhaps not be quite so intimidating as this one -- nothing could be more so. On the other hand this one has an aura of dignity and significance that we all appreciate.

In any events stay with us, we will need all your help and support as we continue. I would like to formally thank our staff, which has, as Arthur said, worked itself to the bone, and we do very much appreciate, but for their hard work we could never have gotten even this far.

A final thanks to my fellow commissioners, who I didn't know very well to begin with, but it has become a great pleasure, and I'm not going to want to finish the report because I'll have to give up having lunch with them. Nonetheless, again my thanks to all of you.

This completes the hearings in Washington, D.C. We will be in touch with all of you again, and thank you very much for your help.

(Whereupon, at 5:10 p.m., the Commission adjourned.)

(1¼" To Trim)

COMMISSION ON WARTIME RELOCATION

AND

INTERNMENT OF CIVILIANS

Monday, November 2, 1981

Russell Senate Office Building
Washington, D.C.

Hearing convened at 9:00 a.m.

Before:

JOAN Z. BERNSTEIN, Esq., CHAIR

CONGRESSMAN DANIEL E. LUNGREN, VICE CHAIR

HON. EDWARD W. BROOKE

FATHER ROBERT F. DRINAN

DR. ARTHUR S. FLEMMING

HON. ARTHUR J. GOLDBERG

FATHER ISHMAEL V. GROMOFF

HON. WILLIAM M. MARUTANI

HON. HUGH B. MITCHELL

ANGUS MACBETH, Esq., SPECIAL COUNSEL

S/S

Public Hearings
Washington, D. C.
November 2, 1981

ERRATA

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STATEMENT OF: PAGE

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Karl R. Bendetsen testimony to include:

1. Address to Commonwealth Club of San Francisco, May 20, 1942

2. Memo of February 4, 1942

P R O C E E D I N G S

CHAIR BERNSTEIN: On behalf of the Commission on Wartime Relocation and Internment of Civilians, I would like to welcome you to the continuation of our public hearings into the facts and circumstances surrounding the removal and detention of approximately 120,000 civilian Japanese and Aleut American citizens and permanent resident aliens pursuant to Executive Order 9066 and directives of the United States military forces during World War II.

Since we opened our inquiry in July in Washington, D.C., we have conducted 14 days of hearings in San Francisco, Los Angeles, Seattle, Anchorage, the Aleutian and Pribilof Islands and Chicago. These public hearings have provided an opportunity for more than 700 citizens to testify, including representatives of numerous civic community and religious associations, local and state elected officials and professionals who have studied the impact of the relocation on individuals, families and community life. The hearings have also provided a forum for discussion of the difficult issue of redress and of other remedies as directed by the Congress.

Today, we will review the events and circumstances surrounding the issuance of Executive Order 9066 and other associated actions of the Federal Government. We will ask our witnesses about their roles in those events, to provide information on the decision-making process, to discuss the administration of the camps and the treatment of the citizens

and permanent resident aliens who were detained.

As I said, when opening these hearings in July, we do not intend to conduct an inquisition or a trial. What we do intend is to seek to understand what happened, how it happened and why, to focus on ways to protect against such events in the future and to discuss appropriate remedies. One of our important tasks is to examine the relationship between the civilian and military authorities, including administrative procedures governing this relationship. We must also examine the protections of basic civil rights and liberties afforded by our Constitution and laws and determine whether they are sufficient or need to be enlarged.

These extensive hearings serve a dual purpose -- one is to gather facts by listening to those involved in the decisions and to those affected by them. A second is to make the public aware of these sad episodes in our history.

As we have conducted hearings around the country, many people who have never known and might never have learned have been made aware of the uprooting and removal of Japanese American citizens and permanent resident aliens on the west coast and their confinement in remote camps. Similarly, until the Commission held public hearings in Alaska, very little had been told about the poor conditions in the camps detaining Aleut American citizens in southeastern Alaska or of the occupation and destruction of Aleut homes and possessions by the military.

The Commission will hold an additional day of hearings on November 23rd in New York City to hear Japanese American residents of the east coast who were not interned, from Issei who were permanent resident aliens at the outbreak of World War II and from organizations and individuals with professional expertise on the impact of internment and relocation of individuals and community structure. We will also conduct a conference in Boston later this year to consider legal precedents for redress and possible procedural and legislative measures as remedies to prevent a breakdown of the protection of constitutionally guaranteed civil liberties in the future. Thus, the Commission is beginning to turn from the gathering of historical and factual evidence to the consideration of possible remedies.

Our deliberations will be focused in part on a compilation of precedents for governmental deprivation of liberty or property recently prepared for us by the staff. By these means, we hope to be able to recommend remedies to the Congress which are based on a complete objective and unbiased review.

In conclusion, I would again like to introduce my fellow commissioners and express my sincere appreciation for their dedication to the work of this Commission. I am privileged and delighted to serve on this commission with Congressman Daniel Lungren from California who is my Vice Chair; and with us is Justice Arthur Goldberg, former

Supreme Court Justice and U.N. Ambassador; on my far right is Father Robert Drinan, former Congressman from Massachusetts; Senator Hugh Mitchell, former Senator from the State of Washington; Senator Edward Brooke, former Senator from the State of Massachusetts; and on my far left, Father Gromoff of Unalaska, Aleutian Islands; Judge William Marutani, who sits on the Pennsylvania Court of Common Pleas; Dr. Arthur Flemming, the Chair of the U.S. Commission on Civil Rights. I would also like to welcome Angus Macbeth on my left. Angus is serving as special counsel to the Commission. He comes to us with distinguished legal credentials, including service in the Department of Justice and the U.S. Attorney's Office. He has already been an enormous help to me and to this Commission. He will participate fully in today's agenda.

If I may now, the first witness who is before us is Karl R. Bendetsen, Former Assistant Chief of Staff, Western Defense Command and Fourth Army, in charge of Civil Affairs Division and the Wartime Civil Control Administration.

Mr. Bendetsen, I think perhaps it would be useful perhaps if you would read your whole statement. Normally we summarize but there are many people I think who have not heard your recounting, and if it is agreeable, I think it would be helpful for you to read the whole statement into the record.

MR. BENDETSEN: Thank you.

STATEMENT OF KARL R. BENDETSEN

MR. BENDETSEN: During the year 1941 while serving on the Staff of the War Department, the Office of the Provost Marshal General was established inasmuch as it had not been in existence between the wars, World War I and World War II. I was assigned to that office. My duties were varied. They did include primary attention to the provisions of the Geneva Convention applicable to prisoners of war and the need to establish a Prisoner of War Information Bureau in the event war came. These duties also applied to the provision of facilities by the War Department at the request of the Department of Justice to provide housing facilities in the event that war came. Enemy aliens would be interned at that time. At that time there was no consideration whatsoever of any persons of Japanese ancestry or of Japanese aliens. Any war between the two was not in contemplation, so in order to get some idea of what facilities the Justice Department felt might be needed, they applied only to those Germans and Italians who were non-citizens and who might be considered as alien enemies, so that the facilities were constructed on that basis.

The War Department had no jurisdiction or authority over enemy aliens in the United States until Executive Order 9066 issued February 19, 1942 with respect to enemy aliens residing in the Western Defense Command. Such individuals came under the aegis of the Commanding General of the Western

Defense Command and Fourth Army by delegation from the President of the United States.

I speak of this because it relates solely to enemy aliens in this respect: The Fourth Army and Western Defense Command was given jurisdiction to determine for a hearing board what enemy aliens were to be considered for internment. This was entirely separate and was entirely distinct from the aspects from which you are inquiring, I'm anxious to make the distinction very clear.

There were German aliens, Italian aliens and Japanese aliens, who were brought before the hearing board; they were entitled and usually did bring counsel, with a court reporter present, in which case a record was made, and the Commanding General reviewed each record. He was given the authority and the responsibility to decide which of those individuals were to be interned. The only difference between the Western Defense Command and the rest of the United States was not then a military area, the Western Defense Command, the system was quite urgent, California and Arizona was a military area and so designated by the President of the United States.

I do not recall how many of the German, Italian and Japanese aliens came before this board. It was my responsibility to establish it, to see that they had the facilities, that there were court reporters and that individuals were entitled to counsel and were so advised.

I'm anxious to distinguish those because those individuals were interned, no one else was.

Then I refer to the other provisions of Executive Order 9066. Executive Order 9066 which was signed by the President of the United States, Franklin Delano Roosevelt on February 19, 1942 declared that the west coast coastal frontier was a military area and that the commanding general, having responsibility for the defense of the Western Sea Frontier and Alaska which was also under his jurisdiction, could designate explicit areas. Into these areas no person of any kind could enter without permission. In the case of Alaska, Alaska was a restricted military area and no persons, citizens or not, could enter Alaska from anywhere without an individual permit.

As a result of that, my duty also required me to establish Alaska travel control. The purpose of this was to assure that the very vital military construction required in Alaska for its defense had to work for us, if necessary, to carry this out. Alaska Travel Control therefore established offices in various cities of the United States where persons wished to apply for employment in Alaska, with the end result that if they were cleared by the intelligence authorities (I had no cognizance over the intelligence authorities at any time); if they were cleared, then their permits were issued and they were on their way.

I might add just to bring back some of the

memories, that someone told me once, I guess you have three groups, one on the job, one returning to the lower 48, and still another on the way up because there was a constant turnover, work was done on the Aleutian Islands, an inhospitable place. That was an example of a restricted area to which no one could enter without permission. There was no distinction between persons regardless of origin.

The third aspect of 9066 was that it provided that persons of Japanese ancestry would need to relocate from the coastal frontier. Now looking into the history of the migration of Japanese to the United States, it is pertinent to recall that there was a body of laws entitled the Alien Exclusion Act. They related to persons of Asian ancestry who migrated to the United States. They were adopted in the late 1800s, during the time when the United States was developing its way across the nation to the west coast. These laws were very discriminatory. They provided that no Asian migrating to the United States could own land, he could not intermarry and they were on the statute books of the United States and the several states of the west -- I'm not advised how far they went, but certainly in the 11 western states. They were on the books from about 1890 until just after World War II. As a result of these acts, which as an individual I was never in sympathy, but the fact is they were there and they extended throughout all these years.

As a result whereas no American born person of

Japanese ancestry was covered by law, there were no restrictions. There was a tendency to cause a certain self imposed segregation, so to speak. The persons of Japanese ancestry on the west coast then, largely resided in rather concentrated areas. A great many of them were engaged in [the] very important production of food, largely truck gardens, perishable food; and these, for example, the Boeing Aircraft Factory was playing a very important wartime production role, was right next door to the main area of the Puyallup valley where the truck produce was raised, and so most of them were concentrated very close to that huge plant.

Coming down the coast in California, a very similar situation generally, not exclusively, occurred. The place where the majority of the individuals, the immigrants, most of them lived were in places by coincidence were very close to very strategically important areas. The legal effect of the order was that such persons were required to move from the coastal frontier. 9066 did not apply to any person of Japanese ancestry other than the coastal frontier of the United States. No other individual, whether alien or citizen, anywhere else in the United States was affected by 9066 and no one else was required to move. It is understandable that 40 years later a great many of the essential fact that some viewed and readily misunderstood over time. The order of 9066 was that these were restricted military areas and were considered strategically important.

The initial phase did not provide for any assembly areas or relocation centers. It was not intended and was very intensely desired and hoped it would not be necessary that this phase would come about. In the initial phase after I had found myself on this assignment, when 9066 was issued, I was on the War Department staff. I was not then assigned to the Western Defense Command, Fourth Army.

In the period proceding 9066 and December 7, 1941, my duty in the Office of Provost Marshal General began to include a liaison assignment, which carried me to the Western Defense Command Headquarters at the presidio in San Francisco several times in January and for part of February.

Ome of you will clearly recall what the situation of the United States was then. The superbly coordinated sneak and surprise attack of the Japanese military forces on the United States was wholly unanticipated and its results were devastating. The Pacific fleet was destroyed. There were a few remnants in the Eastern Pacific. The west coast of the United States was totally defenseless. It had no means of defense.

Unfortunately, in the period prior to December 7, 1941, the clouds of war had begun to develop in Europe. Many of you individuals sitting before me will clearly remember that. And on August 8, 1940, the Congress of the United States enacted Public Law 96. That provided

for Selective Service for the first time since World War I. People would be drafted in the military service without their consent. They were to be moved involuntarily because of the imminent danger posed by the gathering war clouds.

It also provided that the President of the United States was authorized to order into active duty the National Guard of the several states. As most of you know, the National Guard of the United States has two capacities; one is latent and the other is active. They are parts of the several states under the command of the governor of each state and they have no federal duties but under certain circumstances enacted by Congress, the President can order them into federal service when they are transformed into the National Guard of the United States. The President ordered the National Guard into the service of the United States and the National Guard unit in the 11 western states largely in Arizona, Nevada, Utah, California, Oregon, Washington and Idaho were, during the period between August 8, 1940 --. This Act only had one year's duration, it expired on August 8, 1941 if the Congress did not extend it. There was a general debate about that and extension carried in the House of Representatives in a dramatic day by one vote. Consequently, the National Guard units in the Western States remained under the -- in the Philippines.

When the surprise attack was launched so successfully -- Pearl Harbor, the Philippines, Singapore

and other points -- the Japanese also attacked the Philippines and Manila. Many of you do not know that story, you were not born then or were too young to remember. The brutalities of the Japanese forces were unspeakable. Never in the history of war had there been such brutality, wanton destruction and murder. Citizens of the United States were treated in that way and the members of the National Guard units who were then prisoners of war, most of them were deliberately destroyed.

As word of these atrocities filtered back into the United States, and they did, in a situation then prevailing across the country, a defenseless country in shock, the situation on the Western Defense Command became a powder key, a powder keg which posed danger to its borders; which very seriously threatened to impair the ability of the Commanding General, General DeWitt, to carry out his responsibilities for the orderly induction and training of military units for the Army and as the combined commander for Naval and Army forces, which then included Air, which was not a separate service, of course, until 1947. It very, very materially imposed severe problems for carrying out the defense for the United States.

During that period some of you will remember but very few of you, that the reverses in the Pacific continued. In the Battle of Malacasar Straits practically destroyed all vessels of Naval power in the Western Pacific and it was not until sometime in May when the

Battle of Midway occurred. The Battle of Midway was the first event which suggested any turn in the events that were running so adversely to the future of the Nation. It was a very narrow margin, a very narrow margin of victory, but victory it was.

If it had not turned back the forces, the mass naval forces sailing westward, there is no doubt there would have been an invasion of the west coast of the United States because there was nothing whatever to stop it. Under those conditions, until the Battle of Midway, it was very clear that this was not some distant threat but a very real threat indeed. The Japanese had superior forces. They were superbly trained, very able and there was nothing in their way. They had occupied the two Aleutian Islands, Attu and Kiska. They had done some harassment fire on an important military installation on the Kodiak Islands, which was a strong point, lying east of the western end of the chain.

And so it would be very difficult for anyone today who had not as an adult, witnessed and understood the situation obtaining at that time, to bring it into today's perspective and have any idea what the problem was -- none, I understand that. If I was 30 years old, I wouldn't understand it myself but unfortunately, I was there and had an assignment I didn't ask for, and came to an explanation of what happened, and carried out with maximum regard and care under the circumstances for those

who were affected and involved.

So that it became essential in the first instance to ask persons of Japanese ancestry to move away from the coastal frontier. It would be too much to expect of anyone, no matter how loyal, and most of them were loyal --. I had no contention otherwise, a very relatively minor percentage, there were some of those understandably who were citizens, who swore allegiance to the Emperor immediately and asked to be sent to Japan; they were interned, same as enemy aliens.

There were persons of German and Italian extraction who swore allegiance to the enemy and they were interned. We couldn't send them back, they wanted to go fight us and we had no way to deliver them.

In the first phase, people were asked to move. It was not an easy task but this was a restricted military area, and if there had been an attack, it would be too much to expect that if Japanese forces landed on the Pacific Coast, as they well could have, that persons who immigrated to the United States and even their progeny, would have an easy time, regardless of their feelings of remaining loyal to the United States, probably if they had not turned the other way they would have been shot by the forces, which was a standard practice everywhere else in the Pacific where they landed and everyone knew that.

So there were many forces at play on the emotions of the people, upon their fear, their security and their doubts.

and no one was ever moved by force and to the great credit of the population, who had to respond to a later change of event which I'll describe to you in a few moments, they cooperated.

In that first phase, those who were willing to move were accorded assistance. I was authorized to provide them funds. We made certain that they were controlled and that it would be safe to travel on the eastbound roads which we named because we saw to it that they were safe. I talked to people in Nevada, Utah and New Mexico who arranged for the designation of hotels where they could safely stop, that there would be no inflamed feeling against them because the feelings were running high, their loved ones had been brutally murdered in the Philippines and they weren't about to make any distinctions and perhaps you can bring yourself to understand that. Well, the hostilities -- the hostile feelings didn't subside. Many people in the restricted areas simply couldn't find a place to go and so it was necessary to assist them.

I will come later in my testimony to an analysis which I did in early February of 1942 for the Provost Marshal General which will shed further light on what I'm driving at but it was not a memorandum on which anybody acted, it was just an analogy.

So that it was necessary then to designate the boundaries of restricted areas and to provide for any

evaucation. That brought into being a necessity for assembly centers, assembly centers were established in California, Oregon and Washington, 18 of them. Primarily fairgrounds were used. Why fairgrounds? Because they had water, sanitary facilities, sewer lines, water lines, power lines, areas which essentially were public property, and so I conferred with the civil function side of the Chief of Army Engineers and we constructed facilities in fairgrounds to provide for the process of relocation.

The successive evacuation zones numbered 90, starting in the north and coming down the coast. We gave -- the War Relocation Authority had nothing to do with the Army. That was established by Executive Order 9012, I think, in early March by the President; designating a relocation process which was to be under the management of Milton Eisenhower, General Eisenhower's brother. He never did head it, he accepted another task, though he was on the west coast with me and worked closely together with me because I knew if anyone was left in the center, he would take over for me and Milton knew all about it.

The assembly centers were equipped to house families, not under ideal conditions but very commodiously satisfactory. Certainly, it wasn't like home but for some people who were in adverse circumstances, who themselves told me that it was somewhat better, that they had school facilities, hospital facilities, separate facilities for

bathing, sanitation, and so on.

I saw to it that the administration of the centers was under the direction and control of the evacuees. The centers had a minimal staff but the staff of the centers were drawn from sections of the Government by delegation from the President under 9066, in turn through the Secretary of War, Mr. Stimson, and down to General DeWitt, all the powers in it were delegated to me, and I was authorized to call upon any agency of the Federal Government to provide assistance -- I did.

As the movements began, I will read you the order I was given by General DeWitt when I received the assignment in a few minutes. Arrangements were made and we started in the military. When I received this assignment, much to my surprise, I was given this order, and I will read it to you:

"I hereby delegate to you ..." that's Karl Bendetsen, "all in full my powers and authority under Executive Order 9066, which in turn have been delegated by the President to the Secretary of War, by the Secretary of War to the Chief of Staff of the Army, and by the Chief of Staff to the Commanding General of the Western Defense Command and Fourth Army. All rules and regulations of the Fourth Army over which I have any control or authority, you have authority to suspend as in your judgment may be necessary. You will take this action forthrightly, you will establish a separate headquarters, you will have full authority to

call upon all Federal civilian agencies as provided in the Executive Order, and to call for assistance and cooperation of the State authorities as the President of the United States has in turn asked the Governors of the several States concerned to cooperate. You will do this with a minimum disruption of military training, operations and preparedness, and with a minimum of military personnel, and with due regard for the protection, education, health and welfare of all persons of Japanese ancestry concerned. You will, to the maximum, take measures to induce them to relocate voluntarily in areas east of the sea frontier and north of the southern half of Arizona and New Mexico, so that the burden upon them will be at a minimum, at the very minimum that can be provided. You will make known that the Army has no wish to retain them to any time for more than temporary custody to assist in relocation. You will make known that the philosophy and desires of the Army is to have nothing more to do than is absolutely necessary to provide for the order. These measures are for the protection of the nation in a cruel and bitter war and for the protection of the Japanese people themselves. You will use all meausres to protect the personal property including crops.

Now it is perfectly clear that a significant number of persons of Japanese ancestry on the Pacific Coast in the days immediately following Pearl Harbor and through January and February, that unscrupulous persons

took advantage of this. They were disgraceful persons themselves and they were criminals and they did; and those persons lost property.

I asked the Federal Reserve Board and the other agencies of the Government, the Department of Agriculture, the Department of Interior, the departments of each of the states to assist in harvesting crops, and strictly to account for the proceeds of sale. So far as I know, but I could not possibly be everywhere, I had no day less than 18 hours 7 days a week for the entire time -- perhaps some of them were not taken care of, I would be very sorry if that's true. It could be true.

The Federal Reserve and the other agencies tried very hard to protect them. These agencies would sell their properties if asked and requested to do so and scrupulously account for the proceeds.

No agency of the Government did anything else but account for the proceeds and deposit them in the bank account of the person.

It may not have worked that way in all cases, I hope it did and I certainly tried. And so did they. Goods were stored, warehouse receipts were issued and, in many cases, goods were shipped later months ongoing time to wherever the individual requested at the expense --. That was my order. I took it very seriously. I had been born and raised on the Pacific Coast in Washington. The Japanese had a great interest in south Washington, which supplied most

of the lumber and many of them lived there; I knew them, went to school with them. I had talked with a great many of them and asked them to cooperate and they did. I knew the leaders in every center, made it my business to do so but as the hostilities occurred between the United States and Japan and the events I've described became more widely known, the voluntary evacuation phase became too dangerous to handle, for these people to proceed on their own. I couldn't provide them convoys, I had no military forces. I had a very few people who were guards around the centers, not in them. You wonder why they were there, well, they were there to protect the people who were inside, not to protect us from people who were in the centers because the temperature was high, and the anger was very severe.

So that had to be suspended, and that's the assembly center phase that came into play. No families were separated. Every family was scrupulously kept there. So the assembly center phase and later those who were not relocated into relocation centers.

Certainly these centers were not home but we tried to do everything we could to make the people in them comfortable. They chose their own people, they supervised the cooking if they wanted to do it, they did it. The children had recreation and this continued into the relocation centers on a much larger scale where there were no facilities and there was no room.

The evacuation phase to assist in the relocation was concluded in about the forepart of June of 1942. The cooperation was remarkable; we used buses, special trains, highways were rigidly governed, and how many railroad trains I could use to accomplish this because they were so sorely needed in the mobilization effort. But we provided for them on the train, with special provisions, and the buses. Toward the end of the time, and after Midway, I went to the governors of the interior states, I said now you've got to keep your word to me, you've got to help these people relocate. If they wish to come to your state, you have a duty to persuade your people to help them relocate, to enter into business, seek employment and you have a duty to calm your people into welcoming them.

I worked hard on that, and the climate began to change. So we did resume after that effort when the anger subsided and the hostile attitudes were no longer evident, and we resumed the relocation phase, directly from the centers in the same way as we did it when they went directly from their homes. We had elaborate precautions, we designated the roadway, we asked the Highway Patrol of the states to protect them. They were received at the end, they went to designated hotels, so they could have an interim phase to relocate.

About 4,000 families, somewhere around that number, during this phase took advantage of it. Any of them could have at any time, they didn't know where to

go, didn't have the means and we could not ourselves provide for them.

During this time, I was told that I should make arrangements to provide for relocation centers for the War Relocation Authority to take care of those who had not been relocated. So I designated ten places with the cooperation of the Civil Works of the Corps of Engineers they were constructed, equipped, and it is on the record where these camps were -- two in California, Manzanar and Tule Lake. I will comment on both particularly later in my testimony.

So that in summary, we attempted as best as any human could do to protect their property, their person. We attempted as best we could possibly do and were most anxious to help them relocate on their own. We had no desire to be responsible to have them in the center for any time; the Army never had that --. And so it was not quite the chapter that faulting memories have allowed naturally to generate.

The centers were completed, the efforts were made to continue voluntary relocation; those who did not relocate then were transported to the camp centers. Great care was taken for the care and comforts, transportation -- some of the trips were long, one center was in Arkansas, for example. We organized modest entertainment on the train. They cooperated. There were many musical people, some who didn't bring their instruments and we provided them.

When they were in the centers, I was still in this assignment until April of 1942 when I transferred the responsibility to Dillon Myer, a former official of the Department of Agriculture, who had been appointed to replace Milton Eisenhower, who decided during this period that he wished to occupy another position and he went into the U.S. Information Service.

Mr. Myer did not -- could not come to San Francisco until about three weeks before my assignment was terminated; we did our utmost to brief him. The people that we had staffed in relocation centers were very well trained and were very familiar with the background, and the Relocation Authority didn't, in some cases, wish to change that.

At that time I was the manager of pulling together a report for General DeWitt that was required by the Chief of Staff and the Secretary of War, and I see on the table in front of you, what I believe is a copy of that report. It was accurately done, in terms of what was available in the way of information. Chapter 2 which deals with the intelligence aspect, I had no real relationship to that; and in the memo I will speak to you about in a few moments, when I was asked to assess that because the Commanding General of the Fourth Army of the Western Defense Command was highly concerned as to what the alternatives could be. They were really not

recommendations (inaudible) and asked which among them was the better. They weren't based on an intelligence assessment but the intelligence service was -- and the Defense Department provided the material. Calvin Dedrick, an official of the Census Bureau was on my staff and he provided that material, a very competent professional. I don't know whether he has appeared before you or whether he will, but I suppose --

So the book is in nine parts, 28 chapters. General DeWitt recommended to the Chief of Staff of the Secretary of War that the type be kept intact so that the record could be published for the benefit of any universities or libraries that wanted it for future reference. If that was done I do not know because I forget how many copies were made but I think quite a number. Did you find that so, Mr. Macbeth?

MR. MACBETH: I believe there were quite a number.

MR. BENDETSEN: Chapter 2 I made reference to and I highly recommend that those of you who have not read it will scan the very important part of it and take the time and trouble to do so.

In the concluding paragraph of the report, General DeWitt states "The Defense Agencies under his command, military and civilian, as well as the cooperating efforts of the federal agencies, responded to a difficult assignment which devolving upon them with unselfish devotion to duty."

He concludes in the report, quote, "To the Japanese themselves great credit is due for the manner in which they responded to and complied with the orders of exclusion."

As I have said in the outset, there has been some understandable confusion concerning internment. Internment indeed was the fate of aliens who were considered to be either on their own statement or on evidence at hearing boards in the Western Defense Command, they were interned; how many were interned, I don't remember. I don't think they were in the thousands but they were interned in the facilities in the interior; they were not kept in the Western Defense.

But then, during the course of the relocation after I had gone on to my assignment in the combined staff and had the assignment of planning the overall invasion, I was a member of that staff and did participate in the invasion itself; one of the conditions which arose in the centers, in which I was not here, but I later learned because I was ordered back to the United States for two months to combine transporters, much against my silent desires, I wanted to continue with the assignment I had because of this. There were a number of persons of Japanese ancestry who decided that they wished to swear allegiance to the Emperor and at the same time they demanded that they not be separated from their families.

Well, the War Relocation Authority had a lot to --

there were very serious disturbances, they had no means to deal with them but why I don't know, I was asked to come back, and I was assigned to the 9th Service Command in Salt Lake City, Utah, where the Army then had service command for the reorganization of the War Department Government made necessary by the wartime emergency, and I learned what my assignment was to be. I was to find out who was making the trouble to see if they would agree to go one step --. Well, to make a long story short, I knew many of the people, I talked to them, and the decision was made that Tule Lake would be chosen to house those who had not been relocated, including the families of the individuals I described.

So that meant the families in Tule Lake would be moved to other centers -- they still didn't separate the families and that from the other nine centers, people would be moved on schedule to Tule Lake. It was a reasonably complex logistics problem to have everything come out as it should, so that no one would come to a center and have no place to stay.

So Tule Lake became a center which did hold persons of Japanese ancestry who had become disaffected, and there were some in those respect, and because they were there, it has been described and has a sign on the gate that it is an internment camp. Well, it wasn't an internment camp. Despite what I have told you, the people there were allowed to work outside the centers, take jobs

in the area, though I had nothing to do with it.

In any case, I returned to my assignment after that.

I would like to say in conclusion before I refer to the memorandum of analysis and to another paper I was heavily involved in, I would say again that it really isn't possible and could not be fair really to judge in today's perspective the events of the time described following the attack on Pearl Harbor of the Philippines and Singapore. There have been sweeping condemnations of the men who made this decision.

In my duties in Washington and in the War Department on the staff, I have had the privilege of seeing and to some extent knowing each of these men. As a matter of fact, I had the unique experience of having at least something to do with every president of the United States from and including Franklin D. Roosevelt -not much, but I was asked to do something and I always responded whenever I was asked to do anything in the public service area.

So I had met President Roosevelt. I knew Mr. Biddle -- not well. I certainly knew the Honorable Henry Stimson, the Secretary of War, who had been Secretary of State of the United States. He was a man of great compassion, intelligence, knowledge. I know indirectly that he was greatly disturbed about all of this, but I also know that he finally solved it. Indirectly, though I didn't have anything to do with the presidential decision

directly by being in the White House, I knew that the White House gave this very serious consideration, they were troubled about it, so was Mr. Biddle, the Honorable John J. McCloy, who you will hear tomorrow, I understand, the Assistant Secretary of War, is a man of powerful stature, considerate, and a man of compassion. I've had the privilege of knowing him ever since. We never worked together again but from time to time we remembered this time and the problems.

CHAIR BERNSTEIN: Mr. Bendetsen, would it be agreeable with you if we, so that we have enough time for full consideration of testimony, if we began questioning now and we will take up certainly the memorandum in the course of the questioning?

MR. BENDETSEN: Surely.

I would like to offer my written statement to the Commission to be placed in the record if I may at this time.

MR. MACBETH: You may.

CHAIR BERNSTEIN: I am going to establish the following order of questioning. Mr. Macbeth will commence the questioning and then we will rotate beginning with Congressman Lungren.

MR. BENDETSEN: Madam Chairperson, could I at this moment offer into the record, and you can question me about it if you wish, which is an address I made to the Commonwealth of San Francisco, on May 20, 1942, which

bears upon what I told him about this.

MR. MACBETH: Thank you.

MR. BENDETSEN: I also offer a memorandum of February 4, 1942, which analyzed all of this, and you can question me about it if you wish, but I would like to place it in the record if I may.

MR. MACBETH: Thank you.

CHAIR BERNSTEIN: Mr. Macbeth?

MR. MACBETH: Colonel Bendetsen, your testimony emphasizes the problems of possible civil disorder on the west coast in the spring of 1942, is that correct?

MR. BENDETSEN: Yes, sir.

MR. MACBETH: And that I take it is one of the significant considerations in the War Department in deciding the evacuation of the Japanese alien citizens should take place, is that right?

MR. BENDETSEN: Well, it didn't decide it, it recommended it to the President.

MR. MACBETH: But in the thinking of the War Department that was a significant element.

Now, looking back at that time, is it true that this disorder was being addressed then was essentially civil disorder from the non-Japanese population in the form of vigilante activity, farm burning, and things of that sort?

MR. BENDETSEN: Yes, exactly that. It was a question of great anger on the part of the -- not everybody

of course not, but those who lost loved ones, who were brutally treated in the Philippines were very angry and they were in all parts of the states, and many people who were rather unscrupulous were threatening persons of Japanese ancestry, and afraid, which really didn't apply to its origin in the East, barn burning was frequently reported. In other words, they were disrupting the truck driving farming operations of the Japanese.

MR. MACBETH: On the other hand, there were no incidents in which Japanese citizens or aliens on the west coast were engaging in any kind of directly disruptive behavior at that time, is that right?

MR. BENDETSEN: That's right. I know of no one that could be so attributed.

MR. MACBETH: Obviously in that situation one alternative to the course taken would be to try to provide some kind of police guards, some kind of civil -- additional civil order. Would you know whether any detailed consideration was given to any proposal of that sort in the spring of 1942?

MR. BENDETSEN: I have no direct knowledge that it was so considered. If I understand your question, to say whether it was considered to provide guards around the Japanese settlements to protect them from entry? I don't think so, I don't think it would have been practical. I don't know where you would have gotten the guards, and you could not have used soldiers, they were needed to

fight the war. You couldn't have sanitized, you couldn't have closed the entrance to where they were. You have to remember what these areas looked like, they were open. In the Puyallup Valley, which was a beautiful place to behold but you could sure come in and wreck it at any time. I don't think it was considered, and it probably would not have been practical.

MR. MACBETH: Given the fact that there was this serious threat of disorder on the west coast, why is it assumed that if the Japanese aliens and citizens remained in the interior, a similar situation would not prevail there?

MR. BENDETSEN: Well, the basic reason for the relocation order was the fact that the sea frontier was essentially a military area and war preparations were being conducted, manufacturing operations in southern California, central California, northern California, Washington, which were indispensible to preparing the United States for the War; when the war came we were totally unprepared. We had a very minor state of preparedness and some of you will remember that -- none of you young folks don't because you weren't around -- but we didn't have a large army despite the fact -- we didn't have the resources. In the Louisiana Maneuvers after Pearl Harbor, troops carried wooden rifles. We were unprepared, so there were no real resources that were available and the Pacific Coast was open to attack by

the Japanese, and if it was not for Midway it would have been, and if the attack came, you couldn't expect the Japanese forces landing on the west coast, a very real prospect -- you couldn't expect all the Japanese persons to resist them and remain loyal to the United States. I don't think any people could do that. I'm not saying just the Japanese.

MR. MACBETH: What I was really directing your attention to, if I may, the fact that in a situation where the possibilities of vigilante activities and other disruptive activities directed against the Japanese on the west coast was a major concern for the military, was there any reason to believe that the same situation would not occur if people were moved into the Interior?

MR. BENDETSEN: Well, the answer to your question is that temporarily, until this attitude subsided in the western -- and this is primarily the Western States because of the National Guard movement that I described to you that had been deployed in the Philippines and suffered major loss of life while prisoners of war. This was a special situation in the West. Had they been elsewhere further, I don't think the feelings would have run so intensely as they did.

But the primary reason for relocation was simply not alone to protect them from this attitude but it also, in addition to that, was a very real possibility which was analyzed in the memorandum that I presented to you,

in a wartime situation what the alternatives are. In the case of an unprepared nation, where a substantial number of persons of foreign national ancestry, who had been rather forced by what I thought was an unjust law of the late 1800s that I described to you, forced into isolation. I give credit to the Japanese, there was a great respect for their elders; their elders were aliens largely, in their 60s and older. They were not alone because of this hostility, it was also because the United States was in real trouble.

MR. MACBETH: You described some of the hostilities that obtained in the interior when the Japanese first voluntarily and then later under order were moved away from the Pacific Coast. In your written testimony you describe the meeting with the western governors at Salt Lake City, which I believe took place in April of 1942 and was also attended by Milton Eisenhower.

Now Mr. Eisenhower has, in a book, described that meeting and one of the items that he emphasizes very heavily is that one of the major problems with obtaining cooperation or help from the governors from the Mountain States was the fact that the Japanese population having been marked by the Government as potential saboteurs, as potentially dangerous people, it was very difficult to persuade the Mountain State governors that the Japanese should in any way be welcomed into their interior. You have not made a similar sort of analysis in your testimony,

and I would like to get your reactions to Mr. Eisenhower's view.

MR. BENDETSEN: Well, I called a meeting to which you refer, I asked the governors to assemble in Salt Lake, and Milton Eisenhower, who was by then -- he had come to San Francisco -- and I asked him to join me. They were indeed rather hostile to the suggestion which I had advanced at that time; and that is the time when, in April, failing to get their cooperation in that attempt, though I later did, Mr. Eisenhower didn't participate in that on the assignment. Dillon Myer did not either because he had not yet been assigned.

They were very unhappy about the request that they take steps to receive them and get their citizens to protect them.

MR. MACBETH: Isn't it true though that some of that hostility from the Mountain States governors comes from the fact that the Government had described the Japanese population on the west coast as potentially dangerous and as potential saboteurs?

MR. BENDETSEN: Because of what?

MR. MACBETH: Because of the labeling by the Government through the Executive order and the orders that followed it that this part of the population was potentially dangerous and potential saboteurs?

MR. BENDETSEN: No, I don't think it related to that at all. It sprung directly from the causes that I have

testified to already, the brutal treatment of U.S. citizens and U.S. troops by Japanese forces in the Pacific. That was the reason, not the origin. They would have probably been astonished if there was no order. They didn't need an order to make them angry about what they heard.

MR. MACBETH: But you don't believe that they weighed heavily the fact that the Government had issued an order that treated this part of the population as potentially dangerous to the national security?

MR. BENDETSEN: I don't think so, no.

MR. MACBETH: Now, you say that earlier that you knew of no actual cases of sabotage by the Japanese on the west coast following Pearl Harbor and up to the time of the evacuation, is that correct?

MR. BENDETSEN: To my knowledge, I know of none.

MR. MACBETH: I really at this point want to turn to Chapter 2 of the final report on the Japanese evacuation from the west coast, General DeWitt's Final Report, which you described briefly in your testimony.

I really want to be clear about your relationship to Chapter 2 of that report because the report itself sets out various incidents which it claims there was sabotage or possible sabotage. Many of those were attacks, particularly by the Justice Department in 1942, and I really want to determine whether in any way you analyzed or vouched for what is there in Chapter 2?

MR. BENDETSEN: Well, I organized the report

and I testified what I thought its coverage should be but I looked to other sources to provide the material for many of the chapters. I wrote the introduction and forwarded to General DeWitt the first draft and he made changes in it but each chapter was really supplied primarily by the agencies who had the expertise in the area.

MR. MACBETH: And who would have supplied Chapter 2?

MR. BENDETSEN: I really don't remember.

MR. MACBETH: But I take it that --

MR. BENDETSEN: The source of the material was the Office of Naval Intelligence and the FBI. I don't know which agency summarized it and I don't know exactly who in those agencies supplied it. Obviously it was a coordinated effort so that it could form what we would call a chapter, and it represented what their conclusions and obligations had been. But they were not my observations or conclusions because I really had no time to turn my attention to it.

MR. MACBETH: I take it that means that you didn't undertake any independent analysis of the material?

MR. BENDETSEN: No, I did not. That really was not part of my role.

MR. MACBETH: As I understand it, you are saying that you essentially managed the production of the book and collecting the material from other parts of the

analyzing or reviewing and making any independent judgment on material in the book, is that right?

MR. BENDETSEN: Yes, that is right. I was told that I should take steps to provide the basis for General DeWitt to make a report inasmuch as the phase of the Army was drawing to a close of the evacuation. As any staff officer would, I asked myself, well, what recommendations should be made as to the coverage of that report, what should it contain? That was my first step. I suppose anyone would have done the same thing who has to cover that staff assignment. But I submitted that to General DeWitt and he made some changes, he approved the outlines, and then I proceeded to go to the sources with the help of my own staff that they could provide the material.

Now a good deal of the material in the report was provided by the agencies of the Government who were cooperating with us but I didn't ask ONI or the FBI to support my assignment and they were not involved in it. So to answer your question, if that's the source of the material for Chapter 2; to answer your question further, how did Chapter 2 happen to be in the report, it was in the process of the assignment I received to design the contents of the report as an initial proposal to General DeWitt and in the initial proposal which he approved, Chapter 2 was entitled and I included it.

MR. MACBETH: The book also includes as an appendix to Chapter 3, General DeWitt's memorandum of

February 14, 1942 to the Secretary of War, and in discussing the situation with the Japanese on the west coast at that time, he states that the very fact no sabotage was taking place today is disturbing and confirming implications that such action will be taken. I take it your testimony is in agreement with the basic fact that General DeWitt sets out there, that as of the middle of February of 1942 there had been no sabotage on the part of the Japanese on the west coast, is that correct?

MR. BENDETSEN: That there had been?

MR. MACBETH: That there had not been.

MR. BENDETSEN: Well, I didn't know anything to the contrary. I wasn't assigned to the Western Defense Command on February 14th.

MR. MACBETH: I understand that. But on that point you and the General are in agreement, I take it.

MR. BENDETSEN: Yes.

MR. MACBETH: Let me turn to the memorandum of February 4, 1942. That memorandum was not actually signed by you but I take it that that is in fact a memorandum that you drew up, is that correct?

MR. BENDETSEN: If I may say so, Mr. Macbeth, after 41 years my memory is not as sharp and clear perhaps as it was then. When you showed it to me I recognized it, yes, it's mine.

MR. MACBETH: Thank you.

MR. BENDETSEN: But I had not remembered it before.

MR. MACBETH: Is it correct you recommended there an evacuation plan for the west coast that is less drastic than that that was actually followed, mainly that approximately 30,000 citizens and aliens would have been moved from military islands rather than a general mass evacuation from the west coast, is that correct?

MR. BENDETSEN: Well, the memorandum in all fairness, canvasses the alternatives which after inquiry and study, seem to me to be available for consideration; and I think you will find that it listed four alternatives, and they are set forth in the memo.

On the basis of my own individual analysis, it did seem to me that of the four, Paragraph C seemed to me a logical tought.

MR. MACBETH: And that is described --

MR. BENDETSEN: Now this recommendation through the Provost Marshal General, I was then on his staff, I have the impression that it really didn't enter into the ultimate conclusions, but I don't know. It might have been but naturally, anyone looking at the substance and given thought, would probably come to the conclusion that the four alternatives canvassed the situation, and I chose one.

MR. MACBETH: ANd it was removal of aliens and citizens from islands rather than the mass evacuation from the Pacific Coast, is that correct?

MR. BENDETSEN: Essentially the recommendations was

that you would designate military areas in which no one could enter except by permit, no matter who they were. It didn't relate to any particular person, it said from ground zero you must have permission to be in here; if you're not there, to come in here. And that was to designate sensitive areas, that is the thrust of Recommendation C.

And which was done in the case of Alaska when they closed the whole territory as it was then.

MR. MACBETH: But it's also true, is it not, that the clear intention was to not grant permits to citizens or aliens of Japanese ancestry, is that correct?

MR. BENDETSEN: Well, I couldn't flatly state in writing this analysis, I was dealing only with how to cope with the threat of sabotage in a wartime situation, and if you will read the language carefully, it says there is no basis for expecting that the only source of sabotage would come from the Japanese themselves. It flatly says that. So please don't interpret this as meaning that it was aimed at everybody who could be a potential saboteur. You can't come in unless you qualify.

So it really was not aimed at that, and if you will read it I think you will come to that conclusion.

MR. MACBETH: On the other hand, the memo also certainly says that the primary concern along the west coast is at the moment the so-called Japanese problem, and the analysis through the memorandum is directed really

entirely to the Japanese population, alien or citizen on the west coast?

MR. BENDETSEN: Well, it says that but it also says it would cover anybody.

MR. MACBETH: Well, you are saying that in fact the proposal you made is not one that would have been targeted at the Japanese population?

MR. BENDETSEN: It would have been targeted at anyone and the area would have been closed to anyone who didn't have permission. That's the recommendation that I made, and that is what it says. It didn't say that you would only exclude persons of Italian, German or Japanese ancestry. We were just as much concerned about German and Italian aliens as we were about Japanese, and I had no basis for writing a memo that said sabotage can be expected only from one group.

And as a matter of fact, if you will remember, we had some sabotage elsewhere in the United States, it happened to come from Germany.

MR. MACBETH: Well, taken in a slightly different way, was the intention of this memo to look at -- were you in fact looking at the exclusion of citizens, other than citizens of Japanese origin from these areas?

MR. BENDETSEN: Anyone who didn't have permission, everyone.

MR. MACBETH: And you are really saying that at this point, in February of 1942, that as to citizens,

that was not restricted to citizens of Japanese origin?

MR. BENDETSEN: It never came into being, it was just a memorandum.

MR. MACBETH: That is correct but it certainly is close to a number of the plans and debates that were going on in other parts of the Government.

I surely want to be clear about your testimony, that you are stating that as to citizens you were not in reality looking solely to citizens of Japanese origin?

MR BENDETSEN: It says in the first paragraph: "It follows then that the evacuation and internment of all alien enemies ..." not just those, that the Pacific Coast Frontier would necessarily ensure safety or remove the potential saboteur from within striking distance of vital national defense installations.

On the other hand, neither is every alien enemy a potential saboteur. It follows then that speaking of this problem on the Pacific Coast, that is the problem of providing for security against organized or sporadic sabotage, there are four possible choices, and this would be one.

MR. MACBETH: That's certainly correct, but it is also perfectly correct, is it not, that the analysis as to where people are, what kind of people are these saboteurs, is almost entirely devoted to the Japanese, either aliens or citizens, is that correct?

MR. BENDETSEN: Yes.

MR. MACBETH: Now, can you tell us what happened after February 4, 1942 as far as you know that led to this recommendation not being taken but the option of more large scale evacuation being followed. Are you familiar with whatever debate and consideration went on in the War Department or elsewhere during that period?

MR. BENDETSEN: Well, not precisely. I knew there was extended considerations in several parts of the War Department general staff; the Provost Marshal General would not be the primary officer concerned with this problem; he would only be concerned with what his assigned duties are and that would be clear.

The War Department general staff had a number of sections completely staffed who paid attention to it, it was that level with the Secretary of War and the Assistant Secretary of War; the Justice Department had already become concerned quite early because they had assigned Tom Clark, your friend and mine, who became Justice of the Supreme Court. He was on the west coast as a representative of the Department of Justice and his duties were primarily concerned with this subject.

So a good many people, and some few agencies were giving considerations to this problem. As I said, our situation was we were defenseless.

MR. MACBETH: Did particular facts come to your attention after the 4th of February that would have made you change your mind as to the appropriate course to

follow on the west coast?

MR. BENDETSEN: I have no recollection whatsoever, Mr. Macbeth, of a change in my mind or going through any further process of analysis other than this paper.

The other process of analysis that I was asked to prepare was an analysis of how, if such an order which was then under consideration in the Justice Department and elsewhere, of relocation and exclusion -- how would you go about it? No one really knew how. I can't say I did either but I had the assignment and I had to work on it very hard, and that was the only other analysis that I recall that I prepared, and I prepared it for the Assistant Secretary of War, Mr. McCloy, and he said, "Bendetsen, put on your thinking cap and give me a paper which would describe how to do it, it has to be done."

So I stayed up all night and wrote the paper and brought it to him the next day. That's the only other analysis I made. I traveled back and forth and I carried memoranda prepared by the Western Defense Command and tended for another officer in the War Department. I didn't, as far as I know, originate any other papers until I was taken by surprise that you were assigned to (inaudible)

MR. MACBETH: I'm not aware of any others.

In discussing the mass evacuation in this memorandum of the 4th of February, the mass evacuation proposals seemed to be largely one urged by the west

coast Congressional delegations, and you end the analysis there by saying that no one is justified fully the sheer military necessity for such action.

Now from what you've said, does that fact remain your personal opinion in any way as the next several weeks went past?

MR. BENDETSEN: It was my personal opinion at the time. The Congressional delegation from California -- they were very distressed about all of this. They were very vocal about this. They very much thought it was essential and they were bringing pressure to bear around Washington on various officials.

MR. MACBETH: What were the arguments from the west coast delegations as you remember them?

MR. BENDETSEN: I think I could summarize them by saying that they were alarmed, they thought if there was an invasion the pressure would be too great to withstand a tie with ancestry, and they foresaw disaster. But Governor Warren certainly a man of great compassion, Governor of California, was very strongly in favor of it.

JUSTICE GOLDBERG: Attorney General.

MR. BENDETSEN: I'm sorry, he later became Governor but he was the Attorney General, and he strongly urged that. The view out there was unmistakable, and you could tell by those who held such views. I don't know about the senators then, but I know several congressmen who knew I was traveling back and forth and they even

called me -- I was a pretty lowly officer then and it wasn't my decision. They said, you have that view, you can stress it to others.

MR. MACBETH: Turning to a somewhat different topic, you have emphasized in your testimony at the time the War Department was running the assembly centers and the evacuation program that the evacuees were free to leave the centers as long as they were also outside the Western Defense Command, that was their choice at any time.

MR. BENDETSEN: Yes.

MR. MACBETH: Now, as early as the summer of 1942, the WRA was beginning to set up leave regulations which in fact did not allow evacuees to leave the centers freely, a series of conditions on having jobs, on having some kind of security check, of having community acceptance of the evacuees became necessary to obtain leave.

MR. MACBETH: Were you or the other people in the Western Defense Command aware of that in the summer of 1942?

MR. BENDETSEN: No. At least I wasn't.

MR. MACBETH: And to your knowledge that was not in any way a policy of the Army that the WRA was accepting at the War Department suggestion?

MR. BENDETSEN: Well, the Army policy was to have as little to do with it as possible, and deal only with the frontier and try every way it could to bring that about.

MR. MACBETH: In fact the Army attempted to turn this problem over as fully as possible to the WRA, is that correct, in the sense of once the evacuees were moved from the assembly centers, they would become the responsibility of the WRA?

MR. BENDETSEN: The WRA didn't come into the assembly center and order them to move --

MR. MACBETH: But in fact the way things worked out, the Army did remain involved in the operation of the relocation centers in a number of different ways, did it not? First in providing military guards to the centers, is that correct?

MR. BENDETSEN: Well, there were a few military guards around the centers, primarily to protect them from entry. The Army did provide some logistic support for the WRA which completely organized its ability to handle the requirement.

MR. MACBETH: But the guards obviously were also available to maintain order in the camps themselves, whenever there was any trouble or disruption?

MR. BENDETSEN: There were no soldiers inside the camps at any time.

MR. MACBETH: But the guards on the camps had that role as well, didn't they?

MR. BENDETSEN: No. There were no military personnel inside the camp or assigned to the inside of the camps at any time, only outside.

MR. MACBETH: In the spring or early part of 1943, loyalty review boards which made recommendations to the WRA where leave clearance for evacuees were set up, and on those boards were representatives of various War Department units. Was that a program in which you were at all familiar?

MR. BENDETSEN: No, I was not.

MR. MACBETH: So when those boards were set up in 1943, that was not something in which you were consulted by the War Department or the WRA?

MR. BENDETSEN: No, sir, not in any way. They had not been set up prior to the time I left for my European assignment.

MR. MACBETH: Well, I believe they were set up in approximately February of 1943.

MR. BENDETSEN: Well, if they were I was not involved with them. I thought they were set up in the summer of '43 from what I was told.

MR. MACBETH: Turning for a moment to the part of your written testimony that refers to the Department of Justice, you speak there of the Executive order having been drafted in the Department of Justice. Was this in fact a single drafting process and do you know who the draftsman of the executive order was?

MR. BENDETSEN: No, I don't think there was a single draftsman of the order in the final form. I think Edward Ennis served under Jim Rowe, Ed was very strongly

opposed to it, always was, but I think he did participate because he was a member of the Justice Department staff.

I think Jim Rowe had a major role in the drafting. I know that it came over to the War Department and I was asked to take a look at it. I don't remember if I made any recommendations or not, if I did they were not very significant. I don't know -- I'm quite sure it must have been reviewed in the War Department elsewhere, it was a very important subject.

MR. MACBETH: And that really means that regardless of who happened to have the draftsman's pen, the Executive order was clearly acceptable to both the War Department and the Department of Justice, is that correct?

MR. BENDETSEN: Yes, I'm quite certain it was transmitted to the White House by Justice, not by the War Department.

MR. MACBETH: What is it that leads you to be sure of that?

MR. BENDETSEN: I said I'm quite sure. I was not directly involved in that step, but I'm inclined to believe so. I believe Mr. McCloy would have knowledge of that when you see him tomorrow. My impression has always been that the channel would have been from the Justice Department to the White House, because that's ordinarily always the channel of recommendations, and I would see no reason inasmuch as this involved constitutional and legal questions, ultimately reaching the Supreme Court of the

United States some years ago, I would be astonished if they didn't come to the White House through the Justice Department.

MR. MACBETH: You also suggested in your testimony that the Department of Justice was in favor of the evacuation. Isn't it accurate to say that the Justice Department's position was that they would not oppose the evacuation as a strictly measure of strict military necessity, but they were also unwilling to take it themselves as a civil measure of any sort, is that correct?

MR. BENDETSEN: I have difficulty following your question because I didn't ever know that there was any consideration ever given to a plan whereby the Justice Department would carry it into effect. There might have been, but it just never came past me, and I never knew about it.

MR. MACBETH: Isn't it also true that the Justice Department would find it acceptable or not oppose it only if it were a measure to be undertaken by the War Department on the basis of strict military necessity?

MR. BENDETSEN: I would think that was the position, but I don't know, and I don't know exactly what Mr. Biddle said. My information is that he recommended that the order as proposed, the executive order as proposed, would be approved. But I can't speak for him, and I make no attempt to speak for him. I don't believe I ever met him.

CHAIR BERNSTEIN: Mr. Bendetsen, would you like a brief recess?

MR. BENDETSEN: I'm at your convenience.

CHAIR BERNSTEIN: All right then, let's continue.

MR. BENDETSEN: That was very considerate of you but I'm very comfortable.

CHAIR BERNSTEIN: Congressman Lungren.

VICE CHAIR LUNGREN: Mr. Bendetsen, you've talked about the fact that you got the cooperation of a number of different government agencies to assist in implementing the relocation and evacuation and one of the things you stressed was the fact that the Federal Reserve in San Francisco was to specifically assist with respect to taking care of the property of those people to be evacuated.

We have had in the various field hearings that we have conducted, testimony from a number of different witnesses about the property they lost, the fact that basically they just had to sell for whatever the going rate was and in some cases they had 48 hours or seven days to complete the evacuation.

Can you tell me the degree of cooperation you got from the government agencies and to the best of your knowledge from your personal experience, was there an effort during this process to publicize to the evacuees the nature of the assistance that would be given to them?

And thirdly, do you know what degree in fact

assistance was given, at least from your general perspective?

MR. BENDETSEN: In the first phase of my response, the Executive order of the President was a directive to all Executive departments and agencies to respond to the request of the Western Defense Command and that would ultimately provide for -- I don't have the order here -- assigned to me, so that in reality my request had the force of a Presidential directive through delegation.

I encountered no resistance from any agency. I encountered remarkable cooperation and dedication to the necessity which these requests were. I made very clear to everyone that this was not just another request which could have what we sometimes call bureaucratic treatment. It had to be a first priority. These people should be well cared for, not only because we had an obligation to see to it but also, if we didn't care for them in our own interest, we would surely regret it, because U.S. citizens in the hands of the enemy would be even more brutally treated. I knew that that would inevitably be the case.

Now I'm familiar and have been for a long time with those who have said, and probably believe it, that many people had 48 hours or seven hours or seven daysto sell. In no case was there ever any such official action. They may have been told by unscrupulous people and I know cases where that happened, they were given -- now,

some people wanted to sell, and obviously under these circumstances that is not the best of all markets, probably the market was worse than the real estate market is today. But certainly there would have been some sacrifices. But no one pressed anyone to sell his property or to dispose of it.

The property that could be owned could not be owned at that time by those who weren't citizens, though they could lease the property in California. I don't think they could in Washington. But in any case, the Federal Reserve in San Francisco which has the Federal Reserve district on the west coast as you know, Mr. Congressman, did the best they could.

Now I said in my earlier testimony that it couldn't have been perfect but the people -- and I talked to these people frequently -- and I went to the offices. I flew over 150,000 miles that year and that makes a lot of traveling there.

JUSTICE GOLDBERG: In DC-3s.

MR. BENDETSEN: I do not know any such occasions, I cannot testify that they did not occur, I hope they didn't.

VICE CHAIR LUNGREN: Let me ask this question, we have had some people testify that they were farming families and as a result of the relocation they lost the farms. One individual specifically told me for instance that they allowed the land to be protected and worked

over by their next door neighbor and then sometime while they were relocated somewhere in the interior of the United States, were informed that they had better sell it because they couldn't keep it up -- that is the neighbor couldn't keep it up, and it was an area of the country you needed to keep it up, you need to irrigate it or else it would go back to the sandy condition from which it came.

So I was interested in knowing to what extent your prepared statement that lands were farmed, crops harvested and accounts kept their sales and market proceeds deposited to respective accounts to their owners, to what extent was that done? Was that an exceptional case? Was that a general case? Was there an effort to have enough people so that those Japanese nationals and Japanese Americans who did request that to be done, that it was done?

MR. BENDETSEN: Yes, sir, there certainly was an effort and personnel were provided, in some cases from the WPA which still was in existence then. As a matter of fact, the regional director of the WPA provided substantial helpful services, not only in this area but in others, he provided personnel --

VICE CHAIR LUNGREN: In Chapter 2 of the report you referred us to, there is a statement in there that is contrary to the statement that you've made and I just want to make sure that we are clear on that.

There it is suggested that as a reason for going through with the evacuation effort, that the

concentration of Japanese nationals and Japanese Americans were found around military installations and I think it even said there that this was not coincidental, suggesting that perhaps they were relocated in these areas, such that there couldn't be an opportunity for sabotage and so forth.

I noted that in your statement you said that they were concentrated all over the Pacific Coast and coincidentally in areas around the military.

Was there ever any evidence that came to your attention that in fact they had located around these areas so they could be a threat in fact to military installations?

MR. BENDETSEN: No such thought or knowledge ever came to my knowledge but really in retrospect, these colonies, so to speak, had been in existence for many many years on the west coast. My native state of Wasington as I have already said, had quite a number of them throughout the valley, long before anyone ever dreamed that there might be hostilities between Japan and the United States. So if any person who was operating under cover was there and wanted to use a cover, it might have provided a basis for him but I cannot believe that there is any substance to the fact that a large agriculture establishment which had been there for years producing truck gardening and very importantly, was a deliberate design as far back as 30 or 40 or 50 years or even longer

before the Pearl Harbor attack. I can understand people claiming that but I can't provide evidence either way. I'm just expressing to you it seems to me that these are very apparent conclusions for what substance there might have been that a major colony was deliberately established to be near a vital installation. That's where the productive land was, they knew that and they were very good at it.

VICE CHAIR LUNGREN: Let me ask a last question, and it's actually in two parts. We have the statement from Dr. Milton Eisenhower who was going to testify but unfortunately can't appear and I would like to make reference to it. He, in looking back on the decision and believing that the decision for the mass evacuation and relocation was an erroneous one, talks about the fact that we can find scapegoats if we wish or the good guy versus the bad guy theory and goes through the list of all people who want to blame it on them; and then he says, "All of these men and many others played key roles in the tragedy and all must share responsibility and I'm convinced that no one fully understood at the time or even knew about all of the events that transpired between December 7, 1941 and March 1942 and which led ultimately to the evacuation." He goes on to say, "The President's decision was influenced by a variety of different factors, events of which he had little control, inaccurate or incomplete information, bad counsel, strong political

pressure, and even his own training, background and personality."

In reference to that, I wonder if you could suggest to us, having played a role in this, what kind of decision-making mechanism we might be able to establish that perhaps would give the President, obviously in very severe circumstances as you have described, an ability to make a judgment that is less influenced by some erroneous information, by some emotionalism; in fact, whether we can construct such a decision-making apparatus.

The second part of the question is this: You gave us the scenario of how bad it was and there's no doubt the military situation, particularly the naval situation in the Pacific was very bad at the time this decision was made, until the Battle of Midway. The Battle of Midway did occur in June of 1942, if I'm correct.

MR. BENDETSEN: I said May.

VICE CHAIR LUNGREN: And the Pacific seemed to turn around and I wonder if at that point when we realized that the Western Defenses were not as severely -- at least the west coast -- was not as severely threatened by naval forces of Japan and there had been no evidence of sabotage or espionage by Japanese Americans or Japanese nationals; why we didn't rethink the decision, perhaps, and try and dismantle the operation before we did?

MR. BENDETSEN: I don't think I would have any available resources to provide you with an answer. I

don't really believe in one aspect of your question that the Battle of Midway was so important that no one thought we were any longer in danger.

VICE CHAIR LUNGREN: I don't think were not in danger, I'm talking about an invasion on the west coast.

MR. BENDETSEN: The Battle of Midway was important but I don't think it would form a basis for --. I really have no basis to answer you but I don't think it would have formed the basis for rethinking the troubles that lay ahead.

For example, by the time the United States had sufficient lead time to prepare itself to fight a war, which was no credit to the United States, they were just not prepared. It might have been a time when -- I think such a time would have to come when it was clear that the United States had regained a tenable position. A tenable position to have --

VICE CHAIR LUNGREN: What about with respect to the original decision that Dr. Eisenhower's basic thesis evidently is that no single person really had the ability to bring all of these forces to bear and to analyze the situation from all aspects including the aspect of protection of the civil liberties of the Japanese American citizens and therefore the decision was made perhaps in some ways by omission as well as commission.

MR. BENDETSEN: With all due respect to Milton Eisenhower, who I know, he was not in a position to reach

that conclusion and he was nowhere near the White House or the War Department, he was in the Agriculture Department. In retrospect, 40 years later, that's fine, we can all say that. I would not give it all that -- he's a fine man but he certainly voiced no opposition to it at any time in World War II, he didn't suggest that it be rethought then; he was in a position, he was very -- he could have, so this is quite a different circumstance. I think there's something to what I say. I'm not saying it critically at all. Any human individual can go through a process of rethinking anything and it's a hell of a thing to do.

Someone asked me a question, could this happen today, and I say what are you asking me, we have no circumstances in being in which anyone could answer such a question, of course not. But it might happen again in unforeseeable circumstances, I could not say; I'm not sure I won't be around when it does, I'm thankful that the Lord has carried me this far.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: Mr. Bendetsen, if I understand your testimony, you seem to feel that because there was some possibility of an impairment of General DeWitt's recruitment and training of his troops, also for the protection of the Japanese Americans themselves from potential harm that would come to them from irate American citizens, and I think you even suggested that for their

own comfort that this is why they were interned in these camps.

MR. BENDETSEN: They were not interned, Senator, they were never interned. And that's a rewriting of history and unfair to the Government.

MR. BROOKE: You object to the word "internment"?

MR. BENDETSEN: Absolutely.

MR. BROOKE: Why do you object to the word "internment"?

MR. BENDETSEN: Because internment connotes something very different, and I would think that every man on this commission would know it. The Army never intended to intern them and they were not interned. Aliens were interned under a different process. I'm sorry, sir, I cannot accept the term "internment." It's a rewriting of history which is totally unfair to what actually happened at the time, and does not state, the document stated, or order stated, or what was done. They were not forcibly interned.

SENATOR BROOKE: Well now, this Commission -- and certainly I do not intend to be unfair to you or to rewrite history but the voluminous testimony we have had describe these camps quite differently from the way you've described them, Mr. Bendetsen.

MR. BENDETSEN: I know that, Senator Brooke, and I have been informed a great deal about that testimony, and a great part of the testimony was given by people who

were not yet born then, that's 40 years ago. You have many people who are involved who are in their 30s.

SENATOR BROOKE: That's quite correct, but we also had testimony from many people who were actually in those camps and --

MR. BENDETSEN: You also had testimony from a great many people who were not given much of a chance to say it, quite the opposite who were there.

SENATOR BROOKE: I don't know of any case in which a member of a Japanese American who was in one of those camps who was not given an opportunity to testify before this commission, in fact we looked for such testimony, Mr. Bendetsen.

MR. BENDETSEN: Well, I think you certainly could find some because I have received a barrage of mail, I have not brought it here, that might be of interest to the Commission, and I'd be glad to submit it to you so you could consider it. There were many people who in good faith wanted to testify that they thought the conditions were no where near close to some of the testimony which you heard.

SENATOR BROOKE: This Commission would like to have this information.

MR. BENDETSEN: I'd be glad to submit it to you.

SENATOR BROOKE: If you would.

MR. BENDETSEN: Senator Brooke, the reason I didn't bring it is because these pictures were taken,

they are photographs of life in relocation centers, I didn't take them but I'll be glad to submit them, and I'll present them to Mr. Macbeth.

MR. MACBETH: Fine.

SENATOR BROOKE: That would be very kind of you and helpful.

Now, are you saying there were no armed guards and no dogs and no barbed wire fences at these camps?

MR. BENDETSEN: I'm saying that there were no military personnel inside the camps, certainly no dogs inside the camps. Whether there was barbed wire, I really don't know; I don't think the assembly centers had barbed wire. There were guards external on the outer perimeters of the camp, having nothing to do whatever with the administration or life within the camp, and had no authority over it.

SENATOR BROOKE: What was the purpose of the guards surrounding the camps?

MR. BENDETSEN: To prevent unauthorized persons who might have been bent on violence, and that was the case.

SENATOR BROOKE: You mean they wanted to keep people from coming into the camps rather than keep people from going out of the camps?

MR. BENDETSEN: Very definitely.

SENATOR BROOKE: Who do you think wanted to get into those camps, Mr. Bendetsen?

MR. BENDETSEN: There were many kinds of people

who wanted to do harm to the persons of Japanese ancestry.

SENATOR BROOKE: So you wanted to protect the internees -- to protect the people in these camps -- so the armed guards were there?

MR. BENDETSEN: Yes, sir.

SENATOR BROOKE: And your testimony is that the people who were in the camps could come and go freely as they wished?

MR. BENDETSEN: No, my testimony, sir, is not quite that. In the first place, as I think I testified, before the assembly centers were established, the order was in effect, 9066, they were free to go but they couldn't stay on the hoof. Now, some of these camps, the assembly centers were within the restricted areas, that was about all we could use. There were no existing facilities to provide shelter for them while they were making arrangements -- so no, they could not freely leave the assembly center. But the relocation center, during the Army phase, they could freely leave any time they wanted.

SENATOR BROOKE: So you are distinguishing between those two?

MR. BENDETSEN: For the reason of the location of the assembly centers.

If they wished to leave to go into the interior, they were free to go at any time, from the assembly center.

SENATOR BROOKE: Don't you agree that the federal, state and local government have the responsibility

of maintaining civil order and protecting American citizens?

MR. BENDETSEN: Yes, I think so.

SENATOR BROOKE: Why was not the federal, state and local governments fit and able to protect the Japanese American citizens in their homes rather than having them put in camps?

MR. BENDETSEN: Well, I think, Senator Brooke, in the first place, there were no military forces available, they had all been ordered in the federal service to defend the United States, not to defend the citizens of the United States from each other, but from the enemy. There really were no forces which probably could have been capable of doing that in the sense I think you know.

Normally, as you know well from your extensive experience in government, when the governor of a state has to resort to his facility to maintain order, he resorts to the National Guard of the state very frequently.

I think it happens to a number of states. It did not exist.

SENATOR BROOKE: After you use state police and local police, which of course did exist at that time.

MR. BENDETSEN: Well, I don't know whether consideration was given to that, but I doubt it very much that it was.

SENATOR BROOKE: Where did you get the guards who surrounded these camps?

MR. BENDETSEN: Well, these were delivered from

military forces stationed in training areas in California, for example; there were training areas in Oregon, California, Washington, Fort Lewis, for example.

SENATOR BROOKE: I just wondered why these same personnel could not have been used since the Japanese Americans were concentrated, as you said, in certain areas, in California, why they couldn't be used to protect them in their own homes?

MR. BENDETSEN: I don't suppose that around the circumference of an assembly center there would be over four or five of them. There was no flank of military personnel around any of these centers at any time.

SENATOR BROOKE: You said you were just as much concerned about the Germans and Italians as you were about the Japanese Americans. Why were these Germans and Italians not given the same treatment that the Japanese Americans were?

MR. BENDETSEN: They were interned.

SENATOR BROOKE: On the west coast for the same reasons?

MR. BENDETSEN: If they were considered to be an alien enemy, they were turned over to the Justice Department to be interned in the facilities that I described to you that the War Department built prior to Pearl Harbor for that purpose, and at that time considerations, as I said, when I asked what facilities, what size, how many people, the estimates from the FBI

apparently, and the Justice Department, considered only Germans and Italians there, nobody ever dreamed this was going to happen.

SENATOR BROOKE: Do you have number of Germans and Italians that were interned on the west coast?

MR. BENDETSEN: I'm sure it's a matter of --. No, we didn't intern them on the west coast, they were sent to internment facilities elsewhere.

SENATOR BROOKE: That were taken from the west coast?

MR. BENDETSEN: No, sir, I don't know the numbers, I'm sure they are available.

SENATOR BROOKE: It seems to me when you talk about the fact that the Japanese had committed these acts and there is not question about that, I don't think history would deny, can argue with that at all, but you seem not to be able to distinguish between the Japanese enemy and the Japanese American citizen. That always seems to me to be a problem in this testimony. You said that if the Japanese landed on our shores that there was no question that some of those Japanese Americans would have automatically gone with them. What is the basis for that conclusion?

MR. BENDETSEN: Human nature.

SENATOR BROOKE: From the fact they may have come from Japanese ancestry.

MR. BENDETSEN: Well, I can't be certain about these matters, they are matters that are inherent to the

human -- sometimes they are good, sometimes they are otherwise. I would think that anybody of foreign nationality in a foreign land who had happened to be in the land with no intentions of sabotaging the force, but caught in the war, that when that land was invaded by military forces of their home land, would have a very difficult time to restrain themselves from joining with the victorious forces of their home. And the ancestor had -- I'm not talking about all the Nisei (inaudible) but one of the great qualities of the Japanese, which our fellow citizens ought to begin learning, is filial piety to their parents, to their homes and to a very strong influence, and this is falling apart somewhere in the United States.

But at that time there had been a great change in those communities, and for the young ones were respectful of their parents though they are persons of Japanese ancestry who lived in the West. They had great respect for their ancestors.

JUSTICE GOLDBERG: Should we have interned General Eisenhower, who was proud of his German ancestry?

MR. BENDETSEN: We were not invaded by the Germans and he didn't have --

JUSTICE GOLDBERG: But you mentioned earlier there were more threats of sabotage on the east coast than -- excuse me, I didn't mean to interrupt you, Senator Brooke.

MR. BENDETSEN: Justice Goldberg, in fairness of that, what I thought I said was when they were in -- there had been influence from the Alien Exclusion Act, living in a certain sense of isolation --

JUSTICE GOLDBERG: I'm sorry, I should not have interrupted, Senator, please forgive me for interrupting.

MR. BENDETSEN: I don't think General Eisenhower was living under those circumstances.

SENATOR BROOKE: It is kind of scary when you think that this could happen, as you say, because of ancestry because there are very few native Americans, almost all of us come from another country here and would be a very vulnerable nation if you really believe because we have ancestors in other countries, that if we got into a war, just by human nature we might commit acts of sabotage or espionage. But in this case you know of no incidents where there was any act of sabotage or espionage by any Japanese Americans?

MR. BENDETSEN: Not that I know of.

SENATOR BROOKE: Do you believe that racism entered into the decision at all, Mr. Bendetsen? You have been very candid, let me say this, candid about your statement and I just have to ask that question of you, even though you speak of internment of the Germans and Japanese aliens. I just want to know if you feel that one of the considerations, if not the basic consideration of placing Japanese Americans in camps, be they internment

camps or otherwise, was motivated by racism?

MR. BENDETSEN: Senator Brooke, my response to you is that those who made the decision were not men who could ever be described as racists. In any society anywhere, I suppose there are such individuals who are racist. I would dislike to be associated with such people.

While there may well have been many people on the Pacific Coast who had an antipathy towards persons of Japanese ancestry, by no means were they a significant minority but they were there; there was great animosity because they were very successful in farming, and their neighbors were not that successful and that had given rise to barn burning, even where people of the same descent were involved, as we all know. Yest, I'm sure there were people who are racist in the United States and were then but certainly not the man whose responsibility was for the defense of the United States and made the decision.

SENATOR BROOKE: One final question. Looking back in hindsight now, do you still think that the decision that was made in 1942 to place the Japanese Americans in camps was the right decision?

MR. BENDETSEN: Viewing it in the circumstances of the time and not from today's time, yes; I think it was.

SENATOR BROOKE: Thank you.

CHAIR BERNSTEIN: Senator Mitchell.

SENATOR MITCHELL: Colonel Bendetsen, if you

were going to write an equation today in which military needs plus civilian attitudes was to equal evaluation, what weight would you give to the military needs and the civilian attitudes?

CHAIR BERNSTEIN: I'm not quite clear, Senator Mitchell, as to the relationship between the military needs and the civilian attitudes. Are you asking if the civilian attitudes was opposed to rearming of the draft or --?

SENATOR MITCHELL: No, in your February 4 memo and other places you have referred back to the conference within California authorities and you mentioned here this morning the attitude of Attorney General Warren at that time. I'm wondering why the civilian officers had so much weight in the decision that you as a military officer were going to make and recommend to the President?

MR. BENDETSEN: I didn't make the decision.

SENATOR MITCHELL: Well, you were one of the formulators, at least.

MR. BENDETSEN: That's not quite correct of my testimony whe you consider it. I do not say that I dissent from it today, under the circumstances of the time, I think it was right.

Now you ask me why the non-military persons should have been given any attention to consideration. Well, I would say, Senator Mitchell, that under our system, civilian command, and the President of the United States, Secretary of War, would be in view of the framework

of our system, would not make such a decision without considering the view of the important civilians involved, the governor of the state.

The response of the civilian secretary is very often he may say you need it, but I say you can't have it, that's the way it works.

SENATOR MITCHELL: At this time you had not conferred with the Governors of Washington or Oregon, so there was not a reference to the civilian officers?

MR. BENDETSEN: No, I really don't know what the attitude of the Governor of Washington was then. In fact I can't even remember who he was.

SENATOR MITCHELL: In your statement, you made a reference to Boeing which gve the inference that at least that there was a danger of the farmers of sabotaging the area. I know you know the area better than that and you didn't mean that in actuality.

MR. BENDETSEN: No, what I was referring to, sir, was the statement that the persons of Japanese ancestry on the west coast in significant degree were interned, so to speak; it was a perfectly natural process, partly because of our history of alien exclusion.

SENATOR MITCHELL: But the island did not surround --

MR. BENDETSEN: It would keep them together and also because they were primarily very active farmers, truck farmers and Boeing was located throughout the valley, and so also are the truck drivers, thousands of them

operating there. And my memo says you can't guarantee against sabotage, you can't assume that every alien is an enemy or that every citizen is necessarily a friend.

SENATOR MITCHELL: But part of the problem is that Boeing was not located in that valley.

MR. BENDETSEN: It was, absolutely.

SENATOR MITCHELL: It's in the green belt.

MR. BENDETSEN: Well, you drive on the road to --

SENATOR MITCHELL: You'll get there eventually.

As you know, there was a great deal of what -- a great deal of thinking which was unfortunate, publicity in the newspapers of the country.

What did the military, if anything, what was their responsibility to let the country know just what the military situation was? When did the very definite threat to the west coast diminish? Was that information at any time given to the newspapers of the country?

MR. BENDETSEN: Definitely.

SENATOR MITCHELL: On what basis and what timing? Can you tell us anything about that.

MR. BENDETSEN: Almost immediately. I presume you are talking about the destruction of the U.S. fleet in Pearl Harbor, the attack on Pearl Harbor?

SENATOR MITCHELL: I'm talking principally about subsequent to that.

MR. BENDETSEN: The military situation relative to the defense of the west coast was frankly widely known

in the United States, that we had no fleet, we had no means of defending the west coast against attack and there was no attempt to hide that from the people. They could think for themselves, when the fleet was destroyed, and they did, they were in a state of considerable dismay and alarm.

SENATOR MITCHELL: That situation was changing constantly, and in his book, Attorney General Biddle said I think as I remember it, that there was no evidence of a pending west coast attack in February.

Now, is that his guess? Was it based on military information?

MR. BENDETSEN: I don't precisely know. I know that the adverse events in the Pacific did not stop with Pearl Harbor, they were ongoing, they were continuing. The virtual destruction our military forces in the Philippines was known and ongoing and in process in February. The loss of control of the Madagascar Straits, which as you know covered the western Pacific -- our allies in the Pacific, such as they were, for one, Britain -- its power had been virtually destroyed and Singapore. As a matter of fact you may remember that the guns of Singapore pointed out to sea and the Japanese attacked it from the other end and they didn't know enough to have two-way guns which could be rotated. But the Japanese forces had made a landing in the Aleutian Islands.

SENATOR MITCHELL: Are you saying there is no

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basis for Attorney General Biddle having indicated that there was at least the potential of an attack on the west coast had decreased by February, by the middle of February?

MR. BENDETSEN: I wouldn't say that, sir, that Attorney General Biddle would say anything he had no basis for but I don't know what it was.

SENATOR MITCHELL: Congressman Lungren mentioned the Battle of Midway. There was testimony before the committee that after the Battle of Midway an aircraft carrier was offered to the Alaskan forces.

MR. BENDETSEN: Offered to whom?

SENATOR MITCHELL: An airplane carrier had been offered to the Alaskan forces, which certainly indicated that and worry about the attack on the west coast seemed to be minimal.

MR. BENDETSEN: I think the reason for that was that Japanese had indeed landed in the Aleutians.

SENATOR MITCHELL: A few had, yes.

MR. BENDETSEN: No, there were --

SENATOR MITCHELL: I think it was there, there is no doubt about it but if it was a threat to the west coast, I don't think we would have worried about minimum forces -- the Japanese forces in the Alaska area.

MR. BENDETSEN: Well, I have no means at hand to say that they were not entitled to that but what I don't know is, if there was then an official statement, I'm inclined to think that it was a question of where to

put the resources at hand and that we knew if we didn't hold Alaska and the Aleutians, we would ultimately be in a very serious position in the Pacific when and if there redeveloped a naval fleet.

SENATOR MITCHELL: My original question: Are you saying that the military needs and the civilian needs were equal in determining the policy of the Japanese evacuation policy of the west coast?

MR. BENDETSEN: I'm now offering you what I think you're asking my opinion -- is that right?

SENATOR MITCHELL: Right.

MR. BENDETSEN: No, I don't think so, I think that the military stated General DeWitt and other senior military officers stated what they regarded as the degree to which they could assure fulfilling their responsibilities, and that this played a role in formulating the basis for the ultimate civilian opinion, the President, and he would consider both.

But I wouldn't think it would be in the civilian opinion, but ultimately it could have been.

SENATOR MITCHELL: Thank you.

CHAIR BERNSTEIN: Father Drinan?

FATHER DRINAN: Thank you Madam Chairman.

Colonel, I admire your steadfastness in your opinion although I'm not sure I understand why. As you know, Eugene Rostow wrote an article in the The Yale Law Journal in 1945 saying this was a big mistake and that

literature has come forward over 40 years saying that this was unnecessary.

We are not attacking the compassion of these people, we are just saying they made a mistake and I guess we have all made a mistake at times, like I made one in high school.

But would you feel for example, that some indemnification should be given to those people who obviously had losses, some losses were given in 1948, and one of the mandates of this court, of this tribunal is to make some arrangements so that those who had specific pecuniary, monetary losses, could in fact get indemnified, even though they may not be able to prove it at this time?

MR. BENDETSEN: Well, Father Drinan, while I did not have a role in it, I was not asked -- I do know that consideration was extensively given in '48, I believe it was, to compensate them and that somewhere in the vicinity of $30 million or $35 million was awarded. But in view to the degree we have manufactured money and agreed to its value per unit, that's quite a large amount.

FATHER DRINAN: Do you think the mere fact that that money was given undercuts your position? Didn't the United States at that time admit mistakes were made?

MR. BENDETSEN: I would think the United States had means of doing so, felt that some compensation was indeed justified and that was paid.

Now, when you consider whether adequate

compensation has been paid to their descendants, I don't think they have any role whatever to claim any compensation. I don't believe that people who went through World War II have been adequately compensated. I don't believe any people in the United States who have been inconvenienced and required to go to war and suffer hardships have ever been compensated and those suffered much more inconvenience than the people who were in these camps.

FATHER DRINAN: I can't believe that.

MR. BENDETSEN: Well, sir --

FATHER DRINAN: Let me just say this --

MR. BENDETSEN: You mean to say you can't believe that a soldier suffered greater inconvenience than the people who were in these camps?

FATHER DRINAN: No, but Colonel, I don't have to tell you it is a very elaborate procedure by which an individual injured in a war may get compensation and the VA is very scrupulous about giving service-connected disabilities and they will open a case.

Let me ask you where you get your basis for the fundamental conviction that Japanese people could not be trusted to be loyal in the event of an invasion and that would extend, I think, even to those who took a solemn oath to support the United States at the moment that they became citizens.

Why do you say that a group, apparently all groups in your judgment, even though they've taken an

oath precisely to be loyal to the United States, that they would cave in if they had an invasion from their former country?

MR. BENDETSEN: Father Drinan, I have never stated that, I have not stated it before you today, not ever; and please don't assume that is my conclusion. I didn't say they would be disloyal. But I said it would put a great strain on them perhaps, in view of the ties of the homeland, from the fact that they had been excluded for years from full participation.

FATHER DRINAN: But there is a certain presumption that some of them would be disloyal and some of them would go to their former --

MR. BENDETSEN: I have not said they would be, I said that there was a potential for it; that's all I said, sir.

FATHER DRINAN: One last question here. You suggest strongly in the statement that you made and also in the address that you gave many years ago to the Commonwealth Club in California, you suggest that this was for the benefit of the Japanese for their protection. Were there many requests for protection by the Japanese?

MR. BENDETSEN: There were some.

FATHER DRINAN: There were some?

But they didn't ask to be taken away to camp? They asked for police protection, I suppose?

MR. BENDETSEN: Probably.

FATHER DRINAN: Thank you very much.

CHAIR BERNSTEIN: Justice Goldberg.

JUSTICE GOLDBERG: Colonel, you were a real Colonel and I was kind of a desk colonel, so I will ask my questions not as a former justice but just colonel to colonel.

In General Biddle's book, he describes you -- and I'm sure you must remember it -- when you are complimented you always are -- that you left a successful law practice on the west coast to join the Armed Forces, that is correct, isn't it, sir?

MR. BENDETSEN: That is correct.

JUSTICE GOLDBERG: And I think the record ought to show that.

MR. BENDETSEN: My income went down from a satisfactory level to --

JUSTICE GOLDBERG: That is a very familiar thing to those of us who volunteered -- so did mine.

MR. BENDETSEN: I know that.

JUSTICE GOLDBERG: Colonel, perhaps you could answer this, because -- and I think it is important for us to know. Many people participated in the colloquy of what ought to be done to Japanese Americans. Henry Stimson, who you correctly described as a very able American, Ambassador McCloy, a very great American, Attorney General Biddle, a great American, Edward Ennis, a great civil libertarian and a great American, Tom Clark, a former

colleague of mine --

MR. BENDETSEN: And Jim Rowe.

JUSTICE GOLDBERG: And yourself. There were some others in the Department of Justice and in the War Department. I have read the record as scrupulously as I can, I cannot find, while there is a difference of opinion, and you have said that there was, indeed as I recall General DeWitt first was against this and you yourself wrote a memorandum that did not favor the evacuation in the first instance.

What puzzles me, and perhaps you can enlighten me, when the chips were down, no person involved wrote a memorandum to President Roosevelt saying that "Well, we don't agree with the recommendation that was made," isn't that strange?

MR. BENDETSEN: I really don't know, sir. If I did I would certainly --

JUSTICE GOLDBERG: Well, I have not found in the record, even in Biddle's book. Attorney General Biddle, who would be normally the person who they said was originally against the evacuation, in his books says that he did not, he yielded to the moral strength and authority of Secretary Stimson as more senior to him. He was a junior cabinet officer and the President received a unanimous recommendation from all concerned.

So that -- so everybody participated in what happened in varying degrees. That is what he says, and

says it is an admission in his interest as we lawyers say. I guess we can accept that.

Now I notice and I think we ought to, for the sake of the commission, correct the record. I read your letter and your letter is not offered for the record. You are, as correctly described, a distinguished lawyer as well as having served in our Armed Services.

We were following, for your own information, we were following a rule where the best evidence in available, you don't submit a written statement, and today you have appeared. I don't think it was warranted to criticize the commission for not accepting a written statement when a witness is available. Wouldn't you agree to that?

MR. BENDETSEN: Yes, I would.

JUSTICE GOLDBERG: Now we are not a court, although Father Drinan almost made it so. This is not an effort to embarrass anybody. We are charged by an act of Congress, signed by the President, to review the facts and circumstances surrounding Executive Order 9066, and the impact of such Executive order on American citizens and permanent resident aliens. Further, review directives of the United States military forces requiring relocation and in some cases the detention in internment camps. This is a statement by Congress of American citizens.

Now, Senator Brooke mentioned and you took umbrage, I have said -- I regard that to be semantics, they were not death camps. Isn't the real issue forcible

evacuation, that took place, did it not?

By terms of Executive Order 9066 there was a forcible evacuation to camps, forget how they were done. Do you think that is so?

MR. BENDETSEN: No, that is not so.

JUSTICE GOLDBERG: You correct me if I was wrong. I thought nobody had a choice on the west coast; 120,000 were evacuated. Wouldn't that be forcible?

MR. BENDETSEN: No, it is not, sir.

JUSTICE GOLDBERG: Please correct me.

MR. BENDETSEN: The intention was to bring about voluntary movement --

JUSTICE GOLDBERG: But you have read the report, and forgive me if I interrupt you -- was there not a general consensus shortly after that that the voluntary movement did not work?

MR. BENDETSEN: It did not work, that is correct, it did not work for a number of reasons but that does not demean or denigrate the intention as I have stated it was to the contrary.

JUSTICE GOLDBERG: What actually happened after a voluntary effort failed, then an executive order was issued authorizing evacuation?

MR. BENDETSEN: No, sir.

JUSTUCE GOLDBERG: What happened?

MR. BENDESTEN: There was only one Executive Order, 9066.

JUSTICE GOLDBERG: Correct.

MR. BENDETSEN: February 19th.

JUSTICE GOLDBERG: Right.

MR. BENDETSEN: And there was no subsequent one relating to this. The 9012 was creating a war -- as a civilian agency. That was sometime earlier in March, I think, or thereabouts. No, that was not the intention.

JUSTICE GOLDBERG: I'm sorry, I cannot hear you.

MR. BENDETSEN: It was not the intention forcibly.

JUSTICE GOLDBERG: I don't want to quarrel about semantics but these people were ordered, Japanese Americans were ordered to assembly and go to relocation camps, isn't that correct?

MR. BENDETSEN: No, sir, not in the first instance. It was not until well into a month and a half or two that it was realized that it wouldn't work.

JUSTICE GOLDBERG: And then there was compulsory evacuation, isn't that so?

MR. BENDETSEN: That's right.

JUSTICE GOLDBERG: Okay.

MR. BENDETSEN: But during that phase, compulsory evacuation, they were not permitted to remain in the designated military areas and while they were in the centers, they were free to leave.

JUSTICE GOLDBERG: I understand that.

MR. BENDETSEN: At any time.

JUSTICE GOLDBERG: As a distinguished lawyer,

you know the Supreme Court said, and perhaps that might explain why so many remained, even though they were free to leave. You were following closely at that time in '42.

MR. BENDETSEN: In '42?

JUSTICE GOLDBERG: Yes, the Supreme Court decision came -- it came in '44, you're right, but the policy was even then that people could leave early, wasn't it?

MR. BENDETSEN: I don't know in '44; I was not in the United States in '44.

JUSTICE GOLDBERG: Well, what about '42?

MR. BENDETSEN: You're in '42?

JUSTICE GOLDBERG: Yes. What was the policy then, could a person pick out -- you have said that the guards were there to prevent hostile elements from attacking them. If a person wanted to leave in '42, could they leave?

MR. BENDETSEN: Yes, sir, they could have gone --

JUSTICE GOLDBERG: That's what I thought.

MR. BENDETSEN: Absolutely.

JUSTICE GOLDBERG: Why didn't they?

MR. BENDETSEN: I don't think they knew where to go.

JUSTICE GOLDBERG: This relates to Senator Brooke's question. You said that the element of racism did not enter into this terrible incident in American history.

MR. BENDETSEN: No, sir, I said it didn't enter

into the decision. I did say that certainly there was racism among them, there was racism in the west coast and even in the east coast and the midpoint of our country.

JUSTICE GOLDBERG: Now, in your statement, not so much today because today I thought your statement was more expansive. In your statement you said that ... I was just a colonel and colonels were a dime a dozen in World War II ... as you and I both know, if you didn't become a general you didn't amount to anything in the 15 million persons in the Army.

In your statement as I read it, you said in effect I was a colonel and I had orders and I followed them, is that correct?

MR. BENDETSEN: Yes, sir.

JUSTICE GOLDBERG: In your Who's Who, which all of us write, you know, we are the authors of the complimentary things that are said about us. In the 1949 edition of Who's Who, written by you -- as I write my own -- it says this, that you conceived the method, formulated the details and directed the evacuation of 125,000 persons of Japanese ancestry from military areas.

That was, as we lawyers say, contemporary evidence as what you conceived your role. That is somewhat different from your statement.

MR. BENDETSEN: No, I construed it as I testified, if it were to be done, how it were to be done, voluntarily in the first place, and when it didn't work, I conceived

how to go from there. That did not mean I conceived or developed anything else.

JUSTICE GOLDBERG: I'm referring to this Who's Who. So was that hyperbole on your part at that time?

MR. BENDETSEN: No, it only refers to what I did conceive.

JUSTICE GOLDBERG: Conceived a method, formulated details and directed evacuation?

MR. BENDETSEN: That's all.

JUSTICE GOLDBERG: How did you then remove it from subsequent editions?

MR. BENDETSEN: Well, to tell you the truth, I don't know I had any reason for it. I frankly don't remember writing that. Over the years when -- as you get something every spring I guess -- all of us do, largely to invite our subscription to the next issue, my secretary takes a look at it and she is the one who usually changes it.

JUSTICE GOLDBERG: Colonel, this has bothered me very much. You answered Senator Brooke's question, we're dealing with hindsight, and I'm old enough to remember what happened in World War II and the panic and hysteria that gripped the country after Pearl Harbor?

MR. BENDETSEN: Yes, I would say so.

JUSTICE GOLDBERG: Let me ask you a pertinent question. In light of what you know now, would you recommend it were you still in the position that you were

in in '42, you answered that not correctly, you said looking back at that period, you do not apologize in fact for what your participation was. Am I correct in analyzing your answer?

MR. BENDETSEN: Well, I think you are --

JUSTICE GOLDBERG: Now I want to ask you this question --

MR. BENDETSEN: I'm not positive that we are on the same wavelength.

JUSTICE GOLDBERG: I will follow through on Senator Brooke's questions.

Today, put aside what happened in '42 but today, if similar situations arose, and I'm very anxious to know your opinion, because you are a distinguished lawyer and it involved great constitutional issues. Today, what would you do?

MR. BENDETSEN: Let me be sure I understand your question.

JUSTICE GOLDBERG: My question is this: Confronted with the same situation today -- forget about '42, because this is important for us to know because we have to interpret motives and we have to make recommendations for the future. Today, if, God forbid, a similar situation were to arise, would you, as a distinguished lawyer, knowing our constitutional history and tradition, support the American Federation of American Citizens on the group basis, or would you go with -- would you say as Great Britain did, decide it on an individual basis?

MR. BENDETSEN: Justice Goldberg, I cannot conceive that it would ever -- that we could ever have a similar situation. I cannot conceive that it is not an impossible circumstance, and therefore I could not answer your question.

JUSTICE GOLDBERG: In other words, you don't know how you would react under those circumstances?

MR. BENDETSEN: That's right, and I don't know how anybody could do that.

JUSTICE GOLDBERG: Now, my final question, a question was raised and Senator Brooke touched upon it, and forgive me if I refer to some of the decisions of the Supreme Court. In Edwards v. South Carolina, we said constitutionally it is the duty of local authority, not the Army, local authority to protect citizens and resident aliens in the exercise of their constitutional rights. And it is puzzling, therefore, to know why this group recognizing all that went on, could not have been protected in their homes rather than -- I won't use forcible, you don't like that term -- compulsory evacuees.

MR. BENDETSEN: I don't like that either.

JUSTICE GOLDBERG: Well, what do you think about it? You know that decision and you don't think that applies now, it is a much later decision; it didn't exist at that time but that is why I ask you the question, what would you do today? Isn't it the obligation of the U.S. Government to protect its citizens from threats,

attacks and so on. Wouldn't you agree with that?

MR. BENDETSEN: Sir, the purpose of the order was not based on that. That was a consideration but it was not a governing consideration or controlling in any way.

JUSTICE GOLDBERG: And what was the governing consideration?

MR. BENDETSEN: Military necessity.

JUSTICE GOLDBERG: Now, on military necessity, reading the record, I find that Admiral Stark said that there was no military necessity; General Mark Clark said there was no military necessity.

MR. BENDETSEN: General Clark, I know his statement but he had nothing to do with it, and he made it recently.

JUSTICE GOLDBERG: Yes. We are all entitled -- that's why I asked you the question, how do you feel today?

MR. BENDETSEN: How do I feel? Do I feel there was a justified military necessity?

JUSTICE GOLDBERG: No, Colonel -- all I'm saying is, the Chief of Naval Operation, Harold Stark, was Chief of Naval Operations, primarily concerned with the defense of the west coast; that was his job without any ships they were all bombed in Pearl Harbor.

Now, when you get authority like that, saying there was not military necessity, I get very curious. Then why under the guise of military necessity, when the

Chief of Naval Operations, I'll put aside General Clark, and so did J. Edgar Hoover, as you remember --

MR. BENDETSEN: Yes.

JUSTICE GOLDBERG: Then how is the doctrine of military necessity held up?

MR. BENDETSEN: The Commanding General of the Western Defense Command was General DeWitt, he had the responsibility to defend California, Oregon, Washington and Alaska. It was his opinion with which he supported with numerous communications to the Chief of Staff that there was military necessity.

JUSTICE GOLDBERG: Then you are a student of history, how do you describe that the fact -- I was in Great Britain shortly after Pearl Harbor in OSS. How do you explain the fact that a leader like Great Britain without guns, we had to ship them out of our arsenals, nevertheless (inaudible) they were flooded with German refugees, and examined them and then if they were all right, they were all right, if they had evidence of potential problems (inaudible)

If a country like that which is faced with a catastrophe could do it, we are a big continental country, and you know a lot about the military things; invading an island in Guadalcanal and landing forces on the coast of the United States, a great continent, and we were not however, our fleet was destroyed, we were not lacking soldiers and infantry and artillery.

How would you explain that fact? That has bothered me. The British calmly took people and interned them on an individual basis and had the courage to do it but we allowed a military general -- and do you mind if I say -- with your concurrence?

MR. BENDETSEN: Yes, I do mind, because it isn't so.

JUSTICE GOLDBERG: Okay. And the next question -- I find that the record shows that the then Executive order -- there was a sentence proposed by the Attorney General which said that no mass evacuation -- and according to the record, which shows that you and General DeWitt objected to the inclusion of that last sentence. So that is why I use the word concurrence. I don't want to use it. Do you recall that incident or meeting, the meeting at Attorney General Biddle's house?

MR. BENDETSEN: No.

JUSTICE GOLDBERG: Where that sentence was the key question of what ought to be included in the Executive order?

MR. BENDETSEN: No, sir, I don't recall it.

JUSTICE GOLDBERG: That's why, forgive me, but since this is in the record of the conversation, I use the word concurrence.

But on the basic question I asked you --

MR. BENDETSEN: May I respond to what I thought you were asking me --

JUSTICE GOLDBERG: Sure.

MR. BENDETSEN: About the distinction between Great Britain and the west coast of the United States.

I don't believe there is quite a distinction, I don't believe there was any place where the situation was comparable in other nations. I don't know of any action from Britain and I don't know of any action of a free nation to pass exclusion acts, such as done in the United States in the 1800s and the early 1900s. These immigrants who migrated to the United States worked here, formed part of the society in a way and they were excluded from it in a varying sense; so that that condition had no parallel to your example.

JUSTICE GOLDBERG: But may I interrupt you by pointing out in Great Britain, these people who might have been espionage, sabotage people came over in boats to a beleagured island and much worse than the alien exclusion act, no way to know, a person shows up like the boat people -- Germans -- and the English have to determine what they do, and I must say, I was worred, they brought them carefully into this school, examined them, checked their reference, and if -- that took a lot of guts, much more of an alien exclusion, they were coming from Germany.

MR. BENDETSEN: Well, you might ask me the question why wasn't the Germans -- I'll put it to myself --

JUSTICE GOLDBERG: I can't hear you.

MR. BENDETSEN: Why not in Hawaii, and the reason for

that is that there was martial law in the whole place, that's quite a different situation, we did not have martial law in California.

JUSTICE GOLDBERG: That was the military district.

MR. BENDETSEN: So that --

JUSTICE GOLDBERG: If your car passes to any military district (inaudible)

MR. BENDETSEN: Yes.

JUSTICE GOLDBERG: Italian Americans and German Americans go into San Francisco and Los Angeles and part of Oregon. I have found no evidence of that. In fact, I found the record quite to the contrary, German aliens were not all interned.

MR. BENDETSEN: Yes.

JUSTICE GOLDBERG: But certainly those that were could come in.

MR. BENDETSEN: No, sir, they couldn't leave the internment camps to begin with. We interned some Germans and Japanese and German American citizens that were aliens, in California where there were Germans, Italian populations, and German American populations, whereas the Executive order authorized (inaudible)

JUSTICE GOLDBERG: But I find no evidence that a large German American population or Italian American population were required to have military passes in order to come and go. Don't you agree with that?

MR. BENDETSEN: Yes.

JUSTICE GOLDBERG: On an individual basis.

Now I'd like to ask another question. It's always easy to have hindsight rather than foresight, we are all in this.

MR. BENDETSEN: I suspect that generally true.

JUSTICE GOLDBERG: You would agree with that.

MR. BENDETSEN: Yes, sir.

JUSTICE GOLDBERG: And yet you have said we all make mistakes, Presidents make mistakes, ultimately the bottom line is President Roosevelt signed that order and the buck stops there. He signed it and he did, however, sign if you recall on the advice of all of his advisors, no one dissented, and later -- but after it was done a note was sent to him -- but what has puzzled me is this. It is so contrary, although you did not answer the question -- so contrary in our tradition that American citizens and resident aliens with constitutional rights of the American citizens in time of war or time of peace under our Constitution can be in a group without reference to individual disloyalty because none has ever been proven, there was sabotage in the east coast, and there are colonies -- you know that, you know Boston, colonies of Italian Americans, large colonies of German Americans, and just like you said, there are Japanese Americans. Sabotage entered our country on the east coast, not on the west coast, and so what has puzzled me and we all

have to do this in life, on a great number of occasions I've done it; I don't know a person alive who has not made a mistake, and sometimes with sensible reasons as you have outlined, pressure, newspaper columns, Congressional delegations, and I don't see anything wrong with the Pentagon (inaudible)

My great Chief Justice Earl Warren, a whole panoply of liberal, conservative, what restrains -- you don't have to answer that -- what restrains you from coming in and saying in retrospect it was unnecessary and proven so, and as the Congressional Act would happen to show, Congress, and as the President shows, what restrains a person who is involved and several of my friends are very much involved in your situation, from coming in and saying that was unnecessary. That puzzles me, and I still don't know what your answer is. You really believe it was not a mistake?

MR. BENDETSEN: Do I believe it was not a mistake?

JUSTICE GOLDBERG: Yes. Do you really believe in light of the fact that no act of sabotage was communicated, no proven case of disloyalty, they didn't do it in Hawaii and the 422nd Infantry was the most decorated brigade consisting of Japanese, boys who were taken out of the camps and served both in Europe and in the East, and served with distinction; we have no instance where they defected to the enemy.

In light of all these facts of record, not made

up, it is all in the record, and the Pentagon historian testified to this, what restrains you, if you forgive me, from saying mainly, we had good motives, we were not bad people, certainly you weren't, certainly General McCloy for whom I have the greatest respect was not. What restrains people, what is the -- they feel they have to justify themselves for an action which in retrospect proves to be unnecessary?

What restrains you from coming in, sir, and saying we were mistaken?

MR. BENDETSEN: There is nothing that I know of that should restrain an individual, including this one, from passing a retrospective judgment on the past event and the taking into consideration -- but my answer to you is that those who made the decision at the time were in good faith and could not know the outcome of events; and therefore under those considerations, I don't think we can say here today that they made a mistake.

Now that is far different from judging in retrospect. None of us here today know what really the considerations were actually. We can -- some of us lived then, we both did; everyone is entitled to -- I don't say that everyone at that time thought this was the right thing to do, I'm sure that was not so.

JUSTICE GOLDBERG: You participated in meetings where this was very seriously debated, as to whether it

ought to be done or not done?

Let me rephrase it. You think it was necessary.

MR. BENDETSEN: That isn't what I said. I said that people who decided in good faith, thought it was necessary in good faith and under the circumstances, not being able to foresee what you can point to today, you could not accuse them of having made a mistake.

JUSTICE GOLDBERG: Now, I'll ask you to rephrase it. In light of what we know now, would you regard the evacuation, in light of what we know today, would you regard the evacuation had been necessary?

MR. BENDETSEN: I think I have answered the question.

JUSTICE GOLDBERG: No, you have not. You have kind of skirted around it. That's the last question.

I'll ask you again. Would you have regarded, in light of what we know today, from our present vantage point, because that's important for us in our report, would you today say, in light of what we know, that the evacuation was necessary?

MR. BENDETSEN: In the circumstances of the day and time it was.

JUSTICE GOLDBERG: I didn't ask you that.

MR. BENDETSEN: But there are no such circumstances today.

JUSTICE GOLDBERG: I say, in light of what we know, do you regard it now?

MR. BENDETSEN: That does not change the circumstances of December 7, 1941, and the following months.

JUSTICE GOLDBERG: I have asked you three times.

MR. BENDETSEN: I know, and I have answered --

JUSTICE GOLDBERG: Thank you very much.

CHAIR BERNSTEIN: Mr. Bendetsen, I hope we aren't detaining you, I had hoped to be able to finish the questioning before lunch, before we break. Are you able to do that or able to come back, because we can break and then come back after lunch?

MR. BENDETSEN: Well, I really have very pressing commitments this afternoon beginning at 3 o'clock, and on into the evening and all day tomorrow, I'm working on a project now that I have committed myself to.

CHAIR BERNSTEIN: Are you able and willing to allow us some additional time?

MR. BENDETSEN: I could remain here quite readily -- these people have come in from the west coast -- till 2:30. Now could we have a brief lunch recess, you say?

CHAIR BERNSTEIN: If you feel able to continue we will try to continue since we have only three more --

MR. BENDETSEN: It is no inconvenience to me, I'm prepared to continue. If I had to come back I don't think I could do it before next week.

CHAIR BERNSTEIN: Then let's just continue on then.

Dr. Flemming?

DR. FLEMMING: Colonel Bendetsen, I was very much interested in the opening part of your testimony this morning, relative to Executive Order 9066 and in the testimony you stated that in the planning that took place following the issuance of that order, that the initial phase did not call for evacuation. Do I state accurately your testimony?

MR. BENDETSEN: It called for voluntary evacuation. Certainly you could not say it didn't call for evacuation. The Order directed that they remove themselves from the restricted military area.

DR. FLEMMING: But it did not, as you began to operate under the order, you did not initially make provision for compulsory evacuation?

MR. BENDETSEN: I think my answer is yes but I want to be sure we are entirely clear. From the beginning, those concerned were required to relocate and it was the intention and desire of all authorities that they do so on their own but it was a requirement.

DR. FLEMMING: Then when you moved to the second phase then, [that] was the phase where you then required them to report to centers, let's say within a given period of time, am I correct?

MR. BENDETSEN: Yes, successively in exclusion areas along the coast, not all at once.

DR. FLEMMING: In the discussions that took place prior to the issuance of Executive Order 9066, was any consideration given to the fact that the implementation of the Executive order could very well result in depriving the nation of the services of the Japanese Americans at that time? I was in a position where I was concerned along with others about our shortage in the field of human resources, and I know that that was a concern shared at the highest levels of government, and I was wondering whether or not as people weigh the desirability of recommending to the President the issuance of this Executive order, whether any consideration was given to the fact that this could well lead to depriving the nation of the services that could be rendered by the members of the Japanese American community?

MR. BENDETSEN: Certainly there was consideration given to it but it was hoped they would relocate as useful people off the sea frontier and every effort was made to bring that about.

DR. FLEMMING: But that did not happen, in many instances?

MR. BENDETSEN: It did happen to a significant degree and it did not happen to a significant degree.

DR. FLEMMING: Because it did not happen, we were deprived of services from persons who were in a position to render us very meaningful services at that critical point, were we not?

MR. BENDETSEN: Well, that is true but a good many people in the relocation centers themselves, which was not during my phase of being in charge, performed very useful services, and they certainly did.

DR. FLEMMING: The testimony that we have received indicates very clearly that many of them were because they were in the centers, were in a position where they could not serve the nation in accordance with the training that they had received, their background of training and experience.

All I was really interested in was the degree to which this was weighed and balanced before the recommendation was made to sign the Executive order. I do notice, or I did notice in Dr. Eisenhower's testimony, that at the conference in Salt Lake City, to which reference has been made, he put it with the emphasis on trying to work out a plan under which some of their -- some would be available to serve in the various types of positions but at that point he ran into a great deal of resistance.

MR. BENDETSEN: Dr. Flemming, I initiated that meeting, not Dr. Eisenhower, and I have continually attempted to bring about what you're driving at and it was considered but it didn't work; that was unfortunate, but all services were not lost. Any type of necessity is unfortunate.

DR. FLEMMING: One other question growing out of your memorandum of February 4, 1942, which references

were made this morning. I notice that in discussing at least the option which you seem to prefer, that you did refer to the fact that the nation confronted some significant issues in the field of civil rights, and you felt that one of the positive aspects of what you were recommending were that there would be a much better chance under your option of recognizing and implementing that civil rights.

To what extent was consideration given by the various participants in these discussions to the seriousness of taking a whole group of people and having the nation say that we are going to completely ignore any concept of individual due process and so on as far as you're concerned? Did that really get into the discussions and did it trouble and disturb those who were participating in the discussions?

MR. BENDETSEN: Well, Dr. Flemming, as I have already testified, it was very definitely troublesome to Mr. Stimson, to Mr. McCloy and the President of the United States and the Attorney General, of course. I think I have testified very clearly, and you'll have before you, Mr. McCloy, and he will certainly be in a foremost position to assure you that my answers are at least reasonably close to the tenor of what happened although I was not in the conference at those levels, I was just a pretty junior guy on the staff.

DR. FLEMMING: I appreciate that.

MR. BENDETSEN: I came as a captain and got to be a major, and I was a lieutenant colonel for three weeks, and that's all.

DR. FLEMMING: Just following Justice Goldberg's question, you still feel that your recommendation in this February 4, 1942 memorandum was a pretty good recommendation considering all of the circumstances at that particular time?

MR. BENDETSEN: From what I then knew and I wrote the memo, I wrote it in good faith, I can't assure you that I knew it would work but I thought it might.

DR. FLEMMING: Thank you.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: Colonel, I would like to touch upon your written testimony, page 4. Do you have a copy of time?

MR. BENDETSEN: Yes, I have it.

JUDGE MARUTANI: Inasmuch as such is becoming a part of the record, I would like to examine that with you, if I may, sir.

MR. BENDETSEN: Page 4?

JUDGE MARUTANI: On page 4, yes, sir.

Now, Colonel, you indicate there, starting with the second line from the top, "The fact was that under these Acts, Japanese (who migrated to the United States from Japan) were not permitted to intermarry with U.S. citizens ..." Now that is not true, is it, unless you exclude Nisei from the class of citizens.

MR. BENDETSEN: You are entirely right.

JUDGE MARUTANI: Now on page 6, the last full paragraph at the bottom you read, or state that: "It had not occurred to me that there would be an evacuation."

When, sir, was the first time you had considered the matter of evacuation in reference to this entire episode?

MR. BENDETSEN: Well, I was not asked beyond this memorandum I wrote to evaluate --

JUDGE MARUTANI: Sir, the question was, we know that on February 19th, President Roosevelt signed 9066. You obviously became aware of it on or after that at the very latest.

MR. BENDETSEN: I became aware that it was under consideration before the order was issued.

JUDGE MARUTANI: And when was that, sir?

MR. BENDETSEN: I really don't know exactly, Judge Marutani, but I would say probably within seven or eight days, maybe six; I have no precise recollection, but it was in that period, sir, when -- I testified that I was asked by -- I had a request from the Office of the Assistant Secretary of War, Mr. McCloy, to discuss how to go about this.

JUDGE MARUTANI: Colonel, I direct your conversation to a transcript of a telephone conversation which took place on February 1, 1942. Do you have it in front of you?

MR. BENDETSEN: Between General DeWitt and General Gullion?

JUDGE MARUTANI: That is correct, sir.

MR. BENDETSEN: Yes, sir.

JUDGE MARUTANI: If you will turn to page 4

thereof, you will see that Major Bendetsen is referred to there.

MR. BENDETSEN: The lens has fallen out of my glasses and I'm having a little trouble.

JUDGE MARUTANI: Perhaps I could help you, sir. The last two sentences read somewhat as follows -- perhaps we should read that entire thing.

MR. BENDETSEN: This is page 2?

JUDGE MARUTANI: No, page 4, sir.

You are replying to General Gullion, or General Gullion invites you -- "Now Bendetsen is here, sir. He may have some other points."

"Major Bendetsen: Yes, sir, General DeWitt. I have nothing further to add in a general way. There are a few things that arose that it might be well to have recorded for your consideration in addition. As far as any action is concerned looking toward evacuation of persons involving citizens of the United States of Japanese extraction, they will have nothing apparently whatever to do with it. They say that if that comes to pass, if we recommend it and it is determined that there should be a movement or evacuation of citizens, they say hands off, that it is the Army's job; that is one point that came up. Point two, they agree with us that it is possible from their standpoint, from a legal standpoint, they say yes, we can designate certain areas which are absolutely prohibited to all except those whom

we permit to come in; in other words, the licensing theory ..." and I believe, Colonel, that's what you were referring to in your memorandum of February 4.

MR. BENDETSEN: Yes, sir.

JUDGE MARUTANI: (continuing) "... that because of military necessity we say this is a prohibited area to all persons, irrespective of nationality and citizenship, and only those whom we license can come in or remain in. They agree with us that this could be done as the legal basis for exclusion, however, we insist that we could also say that while all whites could remain, Japs can't, if we think there is military necessity for that. They apparently want us to join with them so that if anything happens they would be able to say 'this was the military recommendation.'"

Do you recall ever saying anything like that?

MR. BENDETSEN: Well, I precisely do not recall it but if this is a recorded transcript that says so, then I did.

JUDGE MARUTANI: Well, sir, the point of it is that even under this licensing concept, was it your thought that that could be used in a discriminatory fashion so that to quote, as you were quoted, "we could also say while all whites could remain, Japs can't." The Japs, I take it you are referring to, are the Japanese Americans?

MR. BENDETSEN: I assume so.

JUDGE MARUTANI: Was that in your thought at that time?

MR. BENDETSEN: Well, this relates to my recommendation --

JUDGE MARUTANI: Sir, the question was, was that in your thought at that time?

MR. BENDETSEN: Of November 4th, where there was designated areas from which all could be excluded, then it would be up to the authorities to determine in each case --

JUDGE MARUTANI: Well, you were the authority by your own written statement that General DeWitt practically gave you a blank check, did you not?

MR. BENDETSEN: Of course not. I was not on his staff.

JUDGE MARUTANI: Excuse me, following --

MR. BENDETSEN: You're talking about before the order and --

JUDGE MARUTANI: Sir, after you had been designated you were called back from the airport, and in the audience of McCloy, etc.

MR. BENDETSEN: Right.

JUDGE MARUTANI: General DeWitt gave you a blank check and said you can sign my name, isn't that correct, to any orders.

So you were accountable only to yourself?

MR. BENDETSEN: Sir, that is not true. A staff

officer is always accountable to his commanding general.

JUDGE MARUTANI: All right, I'll --

MR. BENDETSEN: No, sir, I want to make that clear, that is not true.

JUDGE MARUTANI: But you had considerable power at that point?

MR. BENDETSEN: I had the discretion to exercise by his delegation but I was responsible to him in all respects. It's impossible any other way.

JUDGE MARUTANI: Well, sir, let's switch over --

MR. BENDETSEN: Perhaps I don't quite understand what your point is, and if you will --

JUDGE MARUTANI: What I'm trying to determine, Colonel, is whether this man who made this statement that even under the licensing theory, he would make a distinction that all whites could remain and Japs can't, that whether that was the same individual with that same frame of mind who was implementing the evacuation of whatever happened to the Japanese Americans?

MR. BENDETSEN: What I was saying on the phone to General DeWitt, we had been advised by the people with the responsibilities for rendering legal opinions, that is what they told me. It was not my original opinion. That is what it says here also.

JUDGE MARUTANI: I beg to differ with you, sir, it says "we" that's you, "we insist that we could also say that while all whites could remain, Japs can't."

Now, who is "we"? Is that the Justice Department or the Army?

MR. BENDETSEN: The Army.

JUDGE MARUTANI: And you were a part of the Army and you are declaring this statement, is that correct?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: Now, if you switch over to the other document, February 4th, there is again another telephone conversation involving General Clark, Major Bendetsen, General Gullion and I guess that is it. I direct your attention to page 3 thereof, in which you will see Major Bendetsen appearing about the middle of the page.

MR. BENDETSEN: I have found it.

JUDGE MARUTANI: Do you have any trouble reading that, Colonel?

MR. BENDETSEN: No, I can read it.

"Major Bendetsen: He "-- and I don't know who he refers to -- "He states, in substance, General Clark, that the California State authorities believe that they can take action which would be designed to provide for the complete evacuation of alien enemies and voluntarily of Japanese citizens of the United States, to other areas in California not close to what are termed critical areas. Of course, there has been no conference with the Governors of Oregon or Washington. It is only California, and that in turn is based on the fact that apparently California

expects that the Federal Government will actually step in and finance it. That is, a resettlement project, is what it would be. However, that proceeds on the theory that you can get rid of all undesirables from certain critical areas by merely moving the alien enemies and then saying to the others, we ask that you move voluntarily. I do not think it will work, and I do not think it should be done by the states in the first place. I think it should be a uniform plan under federal control." Did you wish to comment on that?

MR. BENDETSEN: Well, I think it speaks for itself, sir.

JUDGE MARUTANI: Well, it would appear to speak for itself in this manner, that Major Bendetsen at this time was suggesting that the matter of evacuation and it does refer to complete evacuation of alien enemies and voluntarily of Japanese citizens, as you just read of the United States; that that program should be undertaken by the Federal Government. Is that a fair reading of the summarization of the thing that Major Bendetsen stated at that time?

MR. BENDETSEN: Yes, it is.

JUDGE MARUTANI: And that was as of February 4?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: Following the February 1 telephone conversation which was previously referred to?

MR. BENDETSEN: That's right, if it were to be done

at all it should be done by the federal government, and it should be uniform to all concerned, not to between the states.

JUDGE MARUTANI: Let's get back to your written statement, Colonel, page 10, the second paragraph from the top. Do I understand that your written statement now is to be modified that you do not stand by the characterization that "We harvested all crops" and the word "all" is underlined. Do you no longer stand by that?

MR. BENDETSEN: As far as I knew that is what was done.

JUDGE MARUTANI: Do you stand by that, sir?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: Could you tell this Commission how much money in fact went through this particular system whereby you quote "we harvested all crops, we sold them, we deposited the money to their respective accounts." How much was involved?

MR. BENDETSEN: I don't know, it would be in the records of the Federal Reserve System. The Army did not collect the money.

JUDGE MARUTANI: Well, you made a statement, sir, and I assumed you had a basis for making that statement, that you must have some information, you just didn't take it out of thin air.

MR. BENDETSEN: The "we" is a collective reference.

JUDGE MARUTANI: What is the --

MR. BENDETSEN: Sir, please let me explain.

The "we" includes those who were cooperating by the direction of the President in undertaking these steps. And my testimony has been quite clear that the Federal Reserve System --

JUDGE MARUTANI: Did you see those records in preparation to preparing this written statement?

MR. BENDETSEN: No, I didn't.

JUDGE MARUTANI: Then what is your authority for making that statement to the Commission?

MR. BENDETSEN: I assumed --

JUDGE MARUTANI: So it is assumption and not fact?

MR. BENDETSEN: I said it may well be, it didn't work.

JUDGE MARUTANI: So it was a guess which may be a fact, that is correct?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: Colonel, let's move on to page 11, near the bottom, you state "They were to be free to lease land, raise and harvest crops, go into businesses." These are the people who had been uprooted from the west coast, is that correct?

MR. BENDETSEN: Yes, sir.

JUDGE MARUTANI: Let me ask you, sir, where were they going to get the land during the war time? Where would they get the money to buy the land, where would they get the money to get the machinery necessary to farm

the land, where would they get the labor? This is a very simple statement, but what are some of the logistics?

MR. BENDETSEN: Well, many of them were not without resources, many of them --

JUDGE MARUTANI: Assuming they had resources for a moment, sir. During wartime, if they had lived in California, say Orange County and wanted to farm in Colorado, where are they going to get the land, the shed, the outlets, seeds, capital, labor, etc. Is it that easy?

MR. BENDETSEN: It is never easy to be an entrepreneur in peace or in war. It takes a great deal of work and diligence and I don't know, some people for whom I have more respect, who have a veteran record, Japan itself as a people far out-distances the United States.

JUDGE MARUTANI: Well, as an American I don't agree with you on that point. I think we have a lot of Yankee ingenuity.

MR. BENDETSEN: I'm speaking of their productivity.

JUDGE MARUTANI: Well, I think we can be very productive, we showed that during the war.

MR. BENDETSEN: Oh yes, but I'm speaking of the fact that --

JUDGE MARUTANI: All right, I understand.

Let's move on to page 13 of your statement, the first full paragraph at the top, picking up with the second sentence: "Hostility toward the Japanese in the interior,

at first minimal, developed quite suddenly and intensively in the western states of the interior as word of the brutalities committed against U.S. military and civilian forces by the Japanese became generally known."

Now, from one American to another, sir, I found that a little troubling in that you make no distinction between the enemy of the Pacific and the Japanese Americans here who were victims. And you, as a lawyer, I would excuse this if it were an ordinary citizen, but you are an accomplished lawyer just as Justice Goldberg said, and I would assume you would use your terminology with greater precision. Unless you do of course equate the two, and I assume that you don't.

MR. BENDETSEN: Well, the statement is that brutalities committed against U.S. military and civilian forces by Japanese forces --

JUDGE MARUTANI: You didn't say Japanese forces, sir, did you?

MR. BENDETSEN: No, I didn't; but I certainly -- you must know I certainly intended that.

JUDGE MARUTANI: Well, I wasn't quite sure and I wanted to get it cleared up, because --

MR. BENDETSEN: To make it perfectly clear, it means the Japanese forces in the Pacific, the brutalities, as the statement refers to earlier, and the context in the Philippines and elsewhere against American citizens and American troops, and that's all it meant, there's no other

inference, and if carries a difference between you seem to have drawn from it, I regret that, because it was not intended.

JUDGE MARUTANI: Well, I join you in that regret.

If you will examine your February 4th memorandum, do you not inexplicably tie in the matter of security which would involve the Japanese Americans along with their alein parents? Do you understand what I'm saying? In other words, you are saying in that memorandum -- and I'm short-circuiting everything here in going through the questions -- that it is not enough to remove the Japanese aliens, that you must also, because if that's all you're going to do you might as well not do it at all. Isn't that what the memorandum of February 4th says?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: The clear implication being that you therefore must try again on the Nisei, the Japanese Americans?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: One final question.

Now you've indicated that all Americans suffered during the war and I certainly would -- you would get no quarrel from me on that. Are you equating that with the suffering of the Japanese Americans?

MR. BENDETSEN: I'm not equating the suffering of any individual with any other individual.

JUDGE MARUTANI: Then why did you make the analogy?

MR. BENDETSEN: I was dealing with the question from Justice Goldberg about compensation, and I said that it was my opinion that the impact of war is never even, that it causes great losses and hardship on the majority of the people of the nation at war and that they are never compensated for those impacts.

JUDGE MARUTANI: Let me ask you about compensation. You said you were with the Prisoner of War Information Bureau, is that correct?

MR. BENDETSEN: Under the Geneva Convention.

I organized the steps that the U.S. Army and the military forces -- their order to comply with the Geneva Convention.

JUDGE MARUTANI: And under the Geneva Convention, if we were to capture one of the Nazis, we paid them, didn't we, while he was a prisoner of war? We paid them compensation?

MR. BENDETSEN: No, sir.

JUDGE MARUTANI: None at all?

MR. BENDETSEN: No, sir.

JUDGE MARUTANI: No checks?

MR. BENDETSEN: No, sir.

JUDGE MARUTANI: No credit?

MR. BENDETSEN: No, sir.

JUDGE MARUTANI: You mean a German officer, if you

captured a German general, and he was brought over here, or a German major or colonel or whatever it was, that he was not compensated at all under the Geneva Convention?

MR. BENDETSEN: I really am not -- I don't believe the Geneva Convention requires --

JUDGE MARUTANI: You're not sure, is that what you're saying?

MR. BENDETSEN: Yes.

JUDGE MARUTANI: If I suggest to you that a German major, a Nazi who fought against our country, and a general, would be paid $20 to $40 a month, would you think that would be wrong, I mean, in terms of factual wrongs?

MR. BENDETSEN: I didn't say I thought it was wrong; I said I thought it wasn't done.

JUDGE MARUTANI: You think that is erroneous?

MR. BENDETSEN: I said I don't have the impression that it was required, I didn't say it was --

JUDGE MARUTANI: Did we do it?

MR. BENDETSEN: I don't know, because I never encountered any German --

JUDGE MARUTANI: Would you say this --

MR. BENDETSEN: Judge, I had nothing to do with prisoners of war.

JUDGE MARUTANI: I'm trying to get your views about compensation here. I take it that you feel that there should be no compensation for the incarceration of

the Japanese Americans in the United States?

MR. BENDETSEN: I said that they have been compensated.

JUDGE MARUTANI: Let's put it this way: No further compensation?

MR. BENDETSEN: Right.

JUDGE MARUTANI: But that is to say that if the Nazis and Italians who fought against us and killed our boys are captured and they are compensated, that's okay, but not if we imprison our own?

MR. BENDETSEN: No, sir, I have not said anything of the kind.

All I've said was -- first of all, Judge, I had nothing whatever to do with prisoners of war.

JUDGE MARUTANI: I understand that, I'm trying to determine your viewpoints at this hearing.

MR. BENDETSEN: My assignment was to determine what the requirements were for identification and notification of the Swiss authority of the identity of prisoners of war. Now in the case of Germany, they observed the convention; as you know in the case of Japan, they did not. They ignored it totally.

In the case of the United States, it is my information that in all cases it was observed. Now whether it did or didn't require compensation -- and I'm inclined to think it doesn't but you might well know, I couldn't say that no one was ever compensated. I simply

don't know.

JUDGE MARUTANI: I will pass. I have other questions but I'll pass.

CHAIR BERNSTEIN: Father Gromoff?

FATHER GROMOFF: On page 9 you state "for the protection of the Japanese people themselves ..." it meant you did not trust the Japanese people?

MR. BENDETSEN: On page 9, sir?

FATHER GROMOFF: Yes.

It says "For the protection of the Japanese people themselves," the wording they used, in that sense it probably meant they didn't trust the Japanese Americans at that time?

MR. BENDETSEN: I don't quite get your question, sir.

FATHER GROMOFF: The reason they put the Japanese into camps was because they didn't trust them, in actuality you said "for their protection."

MR. BENDETSEN: Well, the sentence reads, "These measures are for the protection of the nation in a cruel and bitter war and for the protection of the Japanese people themselves." Now what is your question?

FATHER GROMOFF: My question is, in actuality, they really didn't trust the Japanese, that's why they put them in camps.

MR. BENDETSEN: I don't think there's any implication of that. I have not so testified. Certainly

by far the preponderant majority, if not 100 percent, I don't think it was 100 percent because a number of U.S. citizens of Japanese ancestry swore allegiance to the Emperor and request that requested repatriation to defect from the United States but vastly, as a group, I didn't distrust them.

FATHER GROMOFF: Then another question. You said that they tried voluntary evacuation. And when that didn't work, the Government sent the FBI to kidnap these people and put them in camps.

MR. BENDETSEN: Now I didn't say that. The FBI had nothing to do with it and it was not based on what the intelligence agencies said at all.

My testimony is that 9066 contemplated voluntary action to relieve the coastal frontier of the United States on the Pacific coast, and of all persons of Japanese ancestry. That did not work. They really didn't have a way, they weren't resisting it but they simply couldn't carry it out. Therefore, assembly centers were established, the FBI had nothing to do with it, and the persons of each of the designated areas progressively, were moved to assembly centers and while in that phase, if they could make arrangements and some of them did. They were free to move to the interior and we helped them, if they so desired.

There were funds, and it was seen to it that they were given direction, they didn't have to comply

with them but they could get help if they needed to. We had people stationed in the interior in various cities and towns. Then when the people who were in the assembly centers were unable to make their own arrangements, they were moved to relocation centers, for during the phase that I had anything to do with it, they were also free to leave without restraint, without clearance, to go any place they chose except the coastal sea frontier into a designated restricted area.

I made several trips to the states of the interior of the United States, primarily to 11 western states and encouraged everywhere I could, the voluntary action to help them become a part of the community; a part of the society in the interior, with no restrictions whatever.

FATHER GROMOFF: Do you know who is responsible for the evacuation of the Aleuts in Alaska?

MR. BENDETSEN: Well, the Army had nothing to do with that. The Aleuts, as I understand it, and I think that was under the jurisdiction of the Department of Interior, were not self-sustaining on that island where they were conducting a series of operations, as most of us know; and when the attack on Pearl Harbor came and the naval forces were decimated, the Interior Departtment could not continue to provide periodic ship support, which they required to survive. They were not

interned, they were not covered by 9066, but they were moved to a place where they could be supported and provided for, and as you know well, that is a pretty remote island and does not have any substantial resources of its own; and the Aleuts had no connection whatever with Executive Order 9066 or 9102, they were not in assembly centers, they were provided for somewhere by the Interior Department, and I'm sure they have a record of exactly where that was. And they were supported throughout the war, and then after the war, as you know, they returned.

FATHER GROMOFF: Thank you.

CHAIR BERNSTEIN: Thank you, Mr. Bendetsen, for appearing before the Commission.

The Commission will stand in adjournment until 2 o'clock.

(Whereupon, at 1:20 p.m. the luncheon recess was taken.)

AFTERNOON SESSION

2:30 P.M.

CHAIR BERNSTEIN: May we please come to order. I apologize for being a little later than we had expected to be.

Before we call the first witness, I would like to reiterate just briefly what I said this morning, and what I and the other Commissioners have said on many occasions in the past, and that is to restate that the Commission is not conducting an inquisition, nor a trial. We are inquiring into the facts and circumstances surrounding these events, and we welcome and we have encouraged witnesses, others who wish to give their opinions to this Commission to come forward.

We will continue to do that, and I would like to just as I said, state once again, that this is an objective undertaking, it is not one-sided, it is not to prove a case on either side, and we again encourage people who have something to say on these subjects to contact the staff of the Commission and you will be dealt with fairly, objectively, and the Commission will listen to what you have to say.

May I call the first witness, Mr. Edward Ennis who has been very patient. I know he was here before waiting for us. Welcome, Mr. Ennis, and thank you for coming to be with us today.

STATEMENT OF EDWARD J. ENNIS

MR. ENNIS: I might say in preface, Chair, that my personal connection with these matters some 40 years ago is so close and intimate that I would not miss the opportunity to appear before you.

CHAIR BERNSTEIN: Can anything be intimate after 40 years, Mr. Ennis?

MR. ENNIS: Well, perhaps its the only thing that can be.

My only purpose here today, members of the Commission, is to give you any assistance I can and I don't think that I would be furthered by making any extensive original statement. I did file a written statement on behalf of the American Civil Liberties Union, to which I've appended some personal views based on the fact I was directly involved in the evacuation in the spring of 1942, and all I would like to say prior to your questioning me, is to state in a very similar form that the American Civil Liberties Union, which I'm a member of its national board of directors and for eight years was chairman of the board of directors and for 20 years one of its general counsels, took an immediate part in this matter as soon as it appeared at the end of 1941 and early 1942 that such a thing as evacuation of American citizens from part of the country was under consideration. Roger Baldwin came to Washington and visited the Attorney General, Francis Biddle, and myself and urged

upon us that any mass evacuation would be an unconstitutional denial of due process of law and that everyone was entitled to an individual hearing and determination upon his loyalty if he was considered to be a security risk.

This counsel of course at the time might have been considered as a counsel of constitutional perfection; it was not accepted by the military authority. However, the Attorney General and myself, who had the honor to be his assistant, with Assistant Attorney General Jim Rowe at the time, did, at every step of the way, oppose the evacuation. It was the Attorney General's view that it was not -- there was no factual basis whatever for the evacuation.

It was my additional view which the Attorney General did not share, that it would be unconstitutional. As it turned out, what the Supreme Court says, determines what is constitutional or unconstitutional, the Attorney General of course was right, and I was wrong.

JUSTICE GOLDBERG: Not completely, because at that time, forgive me -- at that time it was not conceived that equal protection clause -- the Fifth amendment -- there was no equal protection clause. It was not conceived that it was implied from the due process law.

However, Chief Justice Warren and the court said, and it implied equal protection laws, so you are not entirely wrong.

MR. ENNIS: I doubt very much if that case had preceded that, that it would have prevailed.

JUSTICE GOLDBERG: I agree with you.

MR. ENNIS: At any rate, I want to make it clear that the American Civil Liberties Union in this matter was firmly opposed to the evacuation as unconstitutional and its view is that this branch of constitutional rights should be followed by some recognition of the wrong that was done and some compensation in some form.

The Union does not feel it appropriate for such an organization to suggest what form compensation should take or if, for example, it should apply to the deceased or whether it should require a specific application by anyone who wanted compensation, whether it should be a fixed amount for all, or depend upon length of detention. The Union is interested in the principle of it, though it does not believe that it is in the position to recommend specific remedies.

We would, however, like to call, in that respect, two matters to the attention of the Commission. One is that since the 1940s when this occurred, there has been a tremendous change in the attitude of the government of the United States, congressional, executive and judicial, as to the responsibility of government, whether it be municipal, state or federal, for monetary damages for violations of constitutional rights.

We didn't think of this 40 years ago but today it is commonplace, if a policeman without the authority of the city authorities, arrests a woman for a speeding ticket and takes her to the police station and subjects her to a personal search, that not only the police, but even the city of Chicago, in this particular case, may be held responsible in money damages for conduct of its officials which it not only did not authorize, but indeed would repudiate.

And we also know on the federal level that our government is responsible for unlawful constitutional searches whether it be by wiretapping or physical searches of the premises. So that we have established the concept in our kind of government, that a government may be responsible for what its subordinate officials do in denying civil rights, even though the authority responsible did not order it.

Here we have a situation which commands your attention. Here we do not have an order by a military commander in the field ordering some immediate military action which might have violated the civil rights in peace time of members of the community.

Here we have an order which was approved by a military commander, approved by the Chief of Staff, the Assistant Secretary of War, the Under Secretary of War, the Secretary of War, all of them, some three of the most distinguished lawyers in our country and then approved

by the President of the United States, as Commander in Chief, and then after this approval of this evacuation by the highest of military authorities in the executive department, you have the Congress of the United States immediately passing the statute making it a criminal offense to disobey any order, military order established under presidential order, any order by the military commander.

And in addition to the Congress approving it, the Supreme Court of the United States approved it and the people of the United States approved it.

Now, it is the position of the American Civil Liberties Union that here you have the highest authority and all of the authorities of our government approving a mass denial of civil liberties which we think is the greatest denial of civil liberties since slavery in our country. That such a government has another side and a good side, and that is that if it is established in our conscience that this was a wrong act, that then the government of the United States should respond by recognizing that, and that means the Congress representing the people should remunerate those affected in some way which I must say is beyond our wisdom to recommend in any detail.

Now that is the position on behalf of the Civil Liberties Union. I would just add a few words for myself, and then I hope I might be able to help the Commission's consideration by your questions, and the answers I may

make to them.

For myself, I was director of Alien Enemy Control of the Department of Justice during this entire period from December 7, 1941 until 1945 or '46; and I was familiar on a daily basis with the initial struggle opposing the evacuation, and making it clear that the Department of Justice, the Attorney General, would not have anything to do with any attempted control of citizens in the United States, apart from the control that our criminal statutes for espionage and sabotage had granted. And he also not only would not do anything about it but would oppose the military doing anything about it on the grounds that it was nonsense to take thousands of people off farms where they were raising the food for the military as well as civilian population, put them in detention camps and then undertake to feed them. We thought the whole program was a nonsensical mistake.

However, the Department of Justice was then put in a rather peculiar position after the military did put into effect this program of defending it as the arm of the Government which defends the rest of the Government. And I myself must confess, and now when I look back on it I don't know why I didn't resign, I did represent as a member of the Department of Justice, I did represent the defendant government in evacuation actions and indeed wrote the briefs, argued the cases in the lower courts, and wrote the briefs for the Solicitor General for the

Supreme Court of the United States. I think I should confess that.

But in sum, all I can say for that is that the constitution not only gives great power to the military in time of war but it appears that it gives them power to make very serious mistakes, and I think the only defense that can be made of the evacuation in legal terms is that the power to control includes the power to control mistakedly and make mistakes as great as was made here. But in a government like ours, I also should include the power and the duty to make remuneration where such a mistake has been made.

Now I think that that states the position of the Union pretty clearly and my own position. Of course I'm happy to answer any questions.

I would like to just present to the members of the Commission one caveat, and that is that I'm talking about my recollections of 40 years ago, and a couple of months. I'm sure the commission is familiar with the sound books which have been written, such as the books of the University of California based on documentation and if anything that I say which is contradicted by the documents, I will accept the documented records.

In that light, I must say to you that just a week ago an attorney came to my office in New York who was writing a book about the participation of the lawyers in this evacuation and he showed me three or four papers

that I have no recollection of, signed by me, memo to the Attorney General, to the Solicitor General, memo to the Assistant Attorney General in charge of the War Division and which of course were my memos but I had no present recollection of those matters at all. But I took no papers from the Department of Justice, I have no library of official documents but if there are any documents which I could throw any light on I would be glad to assist the Commission in any way I can.

CHAIR BERNSTEIN: Thank you, Mr. Ennis. I would like to commence the questioning with Father Gromoff at the end of the table. Father.

FATHER GROMOFF: No comments at the moment.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: Mr. Ennis, there have been comments made in reference to monetary redress, that after all everyone suffered in the war, and perhaps an apology would suffice. Would you care to comment on that observation or kind of evaluation?

MR. ENNIS: Well, my comment is entirely off the top of my head, Judge Marutani, that of course everyone suffered in the war, some by being killed as soldiers; in fact, the greatest per capita losses were probably by the Japanese American 442 Combat Team but that was done, suffering in the war under what was considered appropriate legal processes. Here we're talking about a group of people who were discriminated against, I believe on a racial

basis, and it is quite a difference. I think this is unique in the sense that this group was treated -- it was discriminated against in a very serious way, years of detention on a racial basis and that's quite different from the suffering that all of us had in the war because of its legal impact on us.

JUDGE MARUTANI: Do you have any recommendations to make in terms of safeguards so that this sort of thing will not repeat itself?

MR. ENNIS: I have thought of this and unfortunately I have not been able to get past the statement I made in the memorandum I submitted, to the effect that in my opinion, this involved really a complete defeat of our theory, that even in the military the civilian officers run the Army and the Navy and the Air Force.

I believe what happened here was that these distinguished men, perfectly honest and able men, somehow conceived their job to be that of lawyers for a client, and they went to the President with what the military commander on the west coast asked them to do and presented that; and did not exercise the independent civilian authority and judgment they should have exercised. My own judgment is that if this country ever gets in what they perceive to be a crisis of national security, that exactly the same thing will happen, that no matter what regulation you adopt, that the civilians at the head of the military establishment will turn to the generals and

the admirals and say this is really in your ball park, we will do whatever you think is necessary for the security of the country. I have no recommendation. I wish I did.

JUDGE MARUTANI: Third and final question, have you been shown a copy of a communication I believe you sent to the Director of the American Civil Liberties Union on August 22, 1945, in which you discuss the matter of renunciation?

MR. ENNIS: A letter of August 22nd, yes.

JUDGE MARUTANI: Have you had a chance to review that?

MR. ENNIS: I've read the letter to Ernie Besig, who was Executive Director of the Civil Liberties Union of Northern California, whom I knew very well, and I can tell from this long single spaced letter, some ten pages, that it was drafted for my signature by an assistant who is unfortunately dead, John L. Burling, a fine lawyer, and I would be happy if this would be an appropriate time to tell you in a few words about this whole renunciation program, if you would like.

CHAIR BERNSTEIN: Please.

MR. ENNIS: This was a fiasco which is the Department of Justice's responsibility in a sense, and to that extent partly my responsibility. You can't blame this on the Army except the situation existed because of evacuation. You cannot blame it on the War Relocation Authority who ran the relocation centers but what happened was that we

found that of the eight or ten relocation centers, there was only one in which there were serious disorders and disturbances, the one at Tule Lake and where we thought about 1,000 young Japanese Americans were marching every day, asserting their loyalty to the Emperor, wearing teeshirts with the Rising Sun on them and not only putting pressure on all the other inhabitants, some eight or ten thousand to similarly express loyalty to the enemy but this was getting out in the press and was being used as evidence that the interned Japanese Americans were on the whole disloyal to the country.

My office, the Alien Enemy Office, probably myself and Burling, decided that we could save the constitutional situation and make these camps, instead of detention centers, simply what they were named, relocation centers or shelters for the excluded Japanese Americans which they could leave at any time, if we could get this thousand, very pro-Japanese and publicly very pro-Japanese detainees removed from these centers to the alien enemy camps.

By the way, the Department of Justice was running the Alien Enemy Camps in which we had between five and ten thousand Japanese aliens interned, and between five and ten thousand Germans interned. We had no trouble with these camps at all and we devised the plan that if we could remove these pro-Japanese, Japanese American citizens to an alien enemy camp, we could then declare that the War Relocation Centers were filled with

completely loyal people, that they were only there if they wished to remain; if they could find jobs or wished to live elsewhere outside the west coast military areas, they were free to go.

To do that, I proposed to the Attorney General, that the Nationality Act be amended to provide that a person inside the United States could renounce his nationality in time of war, if the Attorney General approved it as not against the national interest. Up until that time and at the present time after the repeal of this unfortunate provision, the Nationality Act provided that to lose U.S. nationality, you have to apply to a consul abroad, outside the United States, you couldn't lose your nationality in the United States.

I had been general counsel of the Immigration and Naturality Service immediately before the war, and I was familiar with these matters. This proposal was made to the Attorney General and he approved it, that to segregate this violently pro-Japanese group by making them alien enemies, at least making them non-U.S. citizens, and putting them in an enemy alien camp, and he approved it and Congress immediately added this provision to the Nationality Law.

We began with regulations trying to circumscribe its use by saying in order to even apply for renunciation of nationality under this provision, you had to write to the

Attorney General individually and get a form. Instead of getting a thousand applications, it quickly appeared we were going to get five or six thousand applications, and I said to my assistant, Mr. Burling, I said "John, we are not saving the Constitution this way. I'm going to get the Attorney General and say suspend the program and let's not go ahead with it;" and he agreed.

We went to the Attorney General, the Attorney General and the Assistant Attorney General, a very distinguished lawyer, Herbert Wechsler, and they decided that Congress having adopted our suggestion in passing this law, we were not in a position to put it on the shelf and not enforce it, which as a practical matter Burling and I preferred to do but as a legal matter our superiors felt we had to proceed and give anyone who wanted to an opportunity to renounce his nationality.

We did this and Burling went out to Tule Lake and set up the procedure where no one would be allowed to renounce unless he had an individual hearing in a room where there was no other person from the camp present who could say what his views were. we went out there frankly with the idea that we were going to discourage everyone that we could from renouncing.

We were unable to control the situation. Out of about 5500 persons who applied for renunciation, some 5300, I believe, did renounce in Tule Lake but only 150 internees in the other camps. This program, in my personal

opinion, turned out to be a mistaken way to separate in a lawful manner the persons who were agitating in the camps, and then be able to turn to the American people and say see, except for this thousand persons, young men, who want to go back to Japan and fight for the Emperor, everybody else is loyal to the United States and these camps are merely for their shelter and not detention camps.

I think this was a program in the Department of Justice which failed.

JUDGE MARUTANI: Thank you.

CHAIR BERNSTEIN: Dr. Flemming.

DR. FLEMMING: I was very much interested in your testimony relative to your own personal position on this issue, the position of some of your colleagues at the Department of Justice and the position of the Attorney General.

How were the positions you identified here today presented to the President of the United States before he made his decision?

MR. ENNIS: My understanding of it, Dr. Flemming, is that Mr. Biddle, not in my presence, told the President of the United States that although he was not prepared to say that a military -- first, he said the department of the civil authorities had no authority to -- not only had no authority to deal with American citizens but didn't want any power to deal with American citizens, that if anything were to be done to have any semblance of legality,

it had to be done by the military authorities as a matter of military necessity. The President didn't care about that, he was interested in going out and prosecuting the war; and Biddle also told the President, though not in my presence, but I'm sure he did because I know it was his view, and he was an honorable man -- that he believed there was no factual security basis for the evacuation of the west coast, and that this whole plan was simply a result of uninformed public clamor to remove the Japanese Americans from the west coast, and indeed by some farmer-grower associations to obtain their farm lands.

And that DeWitt, the local general, whose first request to the Department of Justice was for limited areas from which alien enemies should be excluded and which we accepted because you must understand in the war time, you have not only real security but you have public relations security. We were prepared to do a little more than we personally would think was absolutely required, because we did have -- you do have a public relations problem to satisfy the public that the Government is taking all steps that are necessary. We were not prepared to do what was done in World War I and call sauerkraut "liberty cabbage" or frankfurters "liberty links" but we were prepared to go along with the military authorities and to remove from decently described areas, such as areas near any military or naval installation, persons of enemy nationality because we had complete authority over

persons of enemy nationality. If you will think about it, if you got interned in Tokyo when the war broke out and you were an able-bodied man, you should be offended that the enemy government did not detain you or did not think you capable of doing something to aid your country. So we did exercise controls over enemy populations, Japanese, German and Italian.

But the Attorney General told the President that if you move from the contemplation of civilian to military activity, there was no factual basis whatever for attributing any group disability or danger to the Americans of Japanese ancestry living on the west coast.

Edgar Hoover, with whom I had many disagreements on other matters, has a perfectly straight record on this. He said that his organization perceived no security reasons for any mass removal of Americans, Japanese Americans, from the west coast, and that there was no security basis for this. All of this was told to the President.

However, Biddle did not say to the President what I wanted him to say, that in addition to no factual basis for it, it was unconstitutional. Biddle told me he could not say that to the President because he thought if a military decision was made that military necessity required this, as unfortunate as it was, it was constitutional.

As I said earlier, if the constitution is what the

Supreme Court says it is, that was the correct advice.

Now then, the President got advice from the Chief of Staff, George Marshall, and from his civilian authorities, and you must remember that Franklin Roosevelt was a very practical person, and he apparently thought on matters of military necessity, he should accept as did his civilian subordinates, the recommendation of this Lieutenant General DeWitt on the west coast who said that "a Jap is a Jap." And you must also remember that I don't have the wit to describe to you today the feeling of public fear which existed at that time and was increased by such statements as Walter Lippmann's in his news column to this effect: "How can anybody ask to remain on the battlefield and all of the west coast is a potential battlefield."

That was the kind of sentiment that prevailed, and Franklin Roosevelt's fleet had just been destroyed in Pearl Harbor.

DR. FLEMMING: I appreciate the point you're making but the fact remains then that the President did not have placed before him by anyone, any in-depth argument to the effect that a mass evacuation of this kind would be in violation of the constitutional rights of the Japanese Americans?

MR. ENNIS: I believe that is true, since the Attorney General did not believe it would, there was no one else to present it, he had no one on the White House

staff to propose that point of view at that time. I don't believe he did.

DR. FLEMMING: This was an Executive order, and therefore went through the Bureau of the Budget and they got points of view from the various departments of the Government, so the point of view they got from the Department of Justice was the point of view that did not deal with the civil rights issue, the human rights issue?

MR. ENNIS: As a legal matter, as a constitutional matter I think that is correct, Dr. Flemming.

DR. FLEMMING: The only point of view they got from the Department of Justice was the point of view that there possibly wasn't a good factual basis for the --

MR. ENNIS: Not possibly, we very strongly stated that there was no factual basis for such an action. But our opinion is against the military opinion on what was considered a military question, obviously did not prevail.

DR. FLEMMING: So, in effect, the President of the United States was making what you described and I agree, was one of the most fundamental decisions in the field of civil rights, without having the benefit of any person functioning as an advocate on behalf of the constitutional rights of the persons that were involved.

You mentioned that one of the arguments that apparently you used and I gather probably some of the discussions that took place with the military was the -- what I would call the human resources argument. Namely,

you said that after all, it makes no sense to evacuate the Japanese Americans and put them in camps and so at a time when we were pretty desperate about some of our choices in the human resources areas.

Did you make any dent at all in the military in that argument?

MR. ENNIS: No.

DR. FLEMMING: Did they have any interest in that kind of an argument?

MR. ENNIS: None whatever.

DR. FLEMMING: Thank you.

CHAIR BERNSTEIN: Mr. Macbeth?

MR. MACBETH: Mr. Ennis, obviously the President did have the full point of view of his own attorney in Mr. Biddle's presentation to him. Were there people who had access to the President who held different constitutional views, who could have gone to him?

MR. ENNIS: I just don't recall, Mr. Macbeth. My recollection now is that when I failed to convince the Attorney General to make the constitutional argument as well as the factual argument and failed to do that, that I was not aware that Biddle was getting -- that either Biddle or the President outside of his Attorney General, was getting any presentation of the constitutional question.

I do happen to know that Biddle, after my argument that he should argue the constitutionality, and I might say to you at this stage, 40 years later, I tried

to impress upon the Attorney General that he, as the Attorney General, should take, as I did, something of a political approach to whether major action was constitutional. It's not simply making a guess at what the Supreme Court will do but the Attorney General of the United States should say something should be unconstitutional if he believes that's a very wrong thing to do, this denial of people's individual rights. I could not take my political view of constitutional law to the higher levels of the Government, I could not make that stick. Perhaps he had more probity than I did and I was just more practical. I wanted the Attorney General to make a stronger argument, and he said no, he didn't believe that, he believed it was done by the military and it would be constitutional, and he got advice apart from mine outside the Department of Justice that it would be constitutional.

MR. MACBETH: Who was that advice from? Was that from Cox and Rowe?

MR. ENNIS: Friends of his.

MR. MACBETH: I take it though that the Attorney General did make the argument that as you put it, it would have been a very wrong thing to do.

MR. ENNIS: Yes.

MR. MACBETH: And that was very clearly made to him. What about Jim Rowe and yourself, were either of you in a position where you could have approached the President and made any constitutional argument?

MR. ENNIS: No, I don't -- Jim, you know, had been one of the assistants to the President.

MR. MACBETH: Yes.

MR. ENNIS: And I don't recall that he had any separate access to the President when he was Assistant to the Attorney General, except with the Attorney General, I just don't know. I'm not even sure -- I don't even recall now what Jim Rowe's position was on the constitutional item. I wanted that made as a political argument, as the civilian branch of the Government should stand against this, and one of the arguments you make is that it's wrong and it's also unconstitutional. I don't remember if Jim stood with me on that or with the Attorney General, that it was constitutional as done by the military but was not the right thing to do.

MR. MACBETH: I take it that the Attorney General's position was, as a mass evacuation, that had to be done on the basis of strict military necessity as a military matter, but short of that --

MR. ENNIS: Also, he added to that as a practical physical matter, the only one that could command the resources to do that was the military.

MR. MACBETH: You mean the War Department?

MR. ENNIS: The Department of Justice with a gaggle of lawyers couldn't handle that expulsion of 120,000 people from the area.

MR. MACBETH: But short of that, didn't he take

the position that it would have been constitutionally permissible civilly to exclude everybody from designated areas, and then permit back in those areas only certain people who were considered not to represent any potential danger and by that, in fact you would achieve the same kind of exclusion that -- perhaps on a lesser grand scale as was the fact excluded under Executive order?

MR. ENNIS: You mean you couldn't exclude citizens?

MR. MACBETH: Exclude everybody and then license back in that particular area people who were not considered potentially dangerous.

MR. ENNIS: Exclude everyone, not only on a racial basis but every person? And then be selective in who you let back in?

MR. MACBETH: Yes. There are a number of internal papers that seem to suggest that the Justice Department, as a civil matter, was perfectly willing to accept the system in which everybody would be initially excluded and then only certain classes would be licensed back into the area but in fact those not licensed back in would be predominantly aliens plus Japanese American citizens.

MR. ENNIS: I would not accept your last clause. I think the Government would have allowed excluding everybody from a limited area but they would be limited close to air fields or military or naval installations; but then allowing back in, of course, the nationality that

you think you have no trouble at all with but as to anyone else, neutral aliens or citizens, that refusing them to return would have to be on the basis of evidence of danger in an individual hearing, where in our view the racial composition of the individuals would not be determined. Evidence on Japanese Americans would be what Japanese societies they had belonged to and whether they took any adverse action saying that they favored Japan to win the war but not excluding anyone who returned solely on the basis of his race.

MR. MACBETH: There has been some dispute in the course of the hearings as the actual drafting of the Executive order. What is your memory as to how the actual order was drafted and put together?

MR. ENNIS: I don't have any clear recollection. I know I participated in it as the attorney in the Department of Justice as did John McCloy and Judge Patterson -- the Assistant and Under Secretary of War and Secretary of War Stimson -- yes, I assisted, I and Jim Rowe assisted Biddle.

Yes, I remember one remark in passing by former Federal District Judge Patterson who said "Ennis, why do you put in all this permissive language in the Executive order? Don't put 'may' in, make it a military order, make it all 'must' language, not 'may' language." I remember that was contributions of Judge Patterson to the discussion of the Executive order.

But I don't recall anything about it. I think if it was anything very significant I might recall it. I know that I worked on this, and I know Bob Patterson made that remark but I don't recall any of the details.

MR. MACBETH: But that question at the end of the process it ended with an order acceptable to both the Department of Justice and the War Department in an outstanding major dispute?

MR. ENNIS: I'm sure the Department of Justice as the attorneys in a sense, the Department of Justice attorneys both for the President and the Secretary of War, we gave them our -- what we considered our best advice as to how such an order should be worded, yes.

MR. MACBETH: Now then, thereafter in a letter to the President in disputes that arose after the Executive order, that was promulgated, Attorney General Biddle stated that the intent of the issuance of the Executive order was to exclude Japanese, including citizens from the west coast?

MR. ENNIS: Yes.

MR. MACBETH: And not aimed at -- and this is in the fact of the point that alien Germans and alien Italians. Was that your understanding of the intent of the Executive order from the time it was promulgated?

MR. ENNIS: Well, it was my understanding that what the military -- that was the authority of the military wanted and that they had not asked for authority for mass

exclusion of German Americans or Italian Americans.

MR. MACBETH: Or even the mass exclusion of German aliens or Italian aliens?

MR. ENNIS: That's correct.

MR. MACBETH: In the final report which General DeWitt had produced on the Japanese evacuation from the west coast, there is a chapter that essentially is a form of support document for the evacuation program and in that is a discussion of two or three different types of possible sabotage on the west coast, principally the possibility of ship to shore, shore to ship signaling, and also contraband were discovered in spot raids undertaken by the FBI.

Now, are you familiar with a body of Justice Department memoranda and letters that relate first to the question of the ship to shore or shore to ship signaling? There were a series of letters and memoranda that were essentially February through April of 1944.

MR. ENNIS: Are these my memoranda?

MR. MACBETH: Many of them are, which lead up to the Government's position on the Korematsu case.

MR. ENNIS: I'm familiar with three memoranda called to my attention by this attorney a week ago, who I told you was doing research to write a book on the participation of lawyers; and one from -- what is the date here -- 1 April 1943 to the Solicitor General; and one dated February 26, 1944 to the Attorney General; and

September 30, 1944 to the Assistant Attorney General in charge of the War Division, Mr. Wechsler.

These memoranda were written because, as we were writing the briefs for the Supreme Court of the United States, there was a question of whether this report of the Army -- their statement of the focus here, could be cited by us in our brief as something in which the Supreme Court could properly take judicial notice. I pointed out to my three superiors that this would be improper because the report not only was wrong, inaccurate, but I thought intentionally inaccurate, and citing in support for the evacuation, actions which occurred after the decision to make the evacuation; and frankly we had quite an argument. And I don't recall it in any detail but these memoranda discuss how we could cite that DeWitt report, and essentially we put in a footnote in the brief that the Department of Justice cited this report only as a description of the procedures which we used in accomplishing evacuation and not for any facts alleged therein as support for the decision to make the evacuation.

The Army played it very rough. We found out that such a report was in preparation and we asked to see it and they told us it was a private report within the Army. Then we found out that the head of the WRA had a copy, so we asked to see it, and they said, well, it was not going to be published. And then we found out it was going to be published and so we asked to see it

before, and they said, well it would be two or three weeks and they would let us know.

In the meantime they published it. The way the Army dealt with this report, so far as the Department of Justice was concerned, made it clear that they did not believe that the report could stand scrutiny of the factual basis they gave for the evacuation.

MR. MACBETH: In the course of preparing for that Korematsu brief, did you have communication with the Federal Communications Commission on the ship to shore signaling, and I'm particularly thinking of the letter of April 4, 1944 from the Chairman of the FCC to the Attorney General.

MR. ENNIS: Yes, I remember that but only because of these memoranda in which I refer to that. We asked the Federal Communications Commission whether there was any support for these contentions of the Army and they wrote back and said none whatever.

MR. MACBETH: And that was or was not based on examination of approximately 760 reported incidents of unidentified radio signaling?

MR. ENNIS: We asked the Federal Communications Commission to give us a report on that because we believed there was nothing to it, and that's the report they gave us.

MR. MACBETH: The final evacuation report also has a statement as to, about capture of arms found in the FBI spot raids, and I believe that Attorney General Biddle

in his book recounting that period states that in fact a large percentage of the arms reported there had been found; and in fact more than 60,000 rounds of ammunition and rifle and shotguns and maps of all kinds had been taken in a single FBI raid that was in fact a raid on a sporting goods store, is that correct?

MR. ENNIS: Yes, that is correct; and the Attorney General in the volume of his biography about his term as Attorney General, called In Brief Authority, has one chapter on this Japanese evacuation, and that is there, and having read it there, I recall that it is one of the things that I recall even after this long time, that he reported all this nonsense about ammunition and rifles which turned out mostly to be sporting weapons and ammunition from sporting goods stores.

But let me say this though, to be as fair as I can about this. Again I must ask you to remember that these early months of '42, you can't imagine how jittery everybody was. I went out to see DeWitt, trying to get him to hold back on this and at first he was talking about small areas and whatnot, until Congress got after him and he realized he could write his own ticket, and pulled down the map and said "Here's the Pacific and the Japanese fleet can come over and attack the Panama Canal, with soldiers in civilian clothes in Mexico and infiltrate into the United States."

I said "General, are you talking about a possibility

or are you talking a probability." And he said "we got to be ready for anything."

This is the attitude that prevailed. Now when the papers reported that ammunition was being found, the fact that it comes from sporting goods stores, the follow-up stories showed that it comes from sporting goods stores is very hard to get across. The story that there is ammunition around, and the west coast is pretty much undefended created a tremendous feeling in the public and we got no help from the Attorney General of California, a most distinguished man or from the other officials out there.

MR. MACBETH: How much do you think the decision was in fact influenced by the enormous pressures of the press and from the politicians on the west coast?

MR. ENNIS: I think a great deal. I won't expand on this but you must remember that there was a strong anti-Japanese feeling without the war. The "yellow peril" feeling along the west coast, perhaps it had subsided below the surface of what you had previously obtained in "yellow journalism" but it was there and there was a very strong feeling against the success that the Japanese people and their children were having. Still you must remember that one of the basic underlying causes of this whole tragedy was that the laws of the United States did not allow naturalization of any aliens of Japanese nationality.

We had a group on the west coast where the older

generation, the parents, were really cut off from our political society, and their children in a sense were also cut off. They were citizens. The Japanese community was not active, it took this evacuation to make them active, they certainly are active now, thank God about that; and they were assigned to those separate communities whom the public hated before the war began and had a feeling of racial emnity.

Now when the war started, you had Corregidor and the mistreatment of the U.S. soldiers. I was called down by the whole delegation of the west coast states who were having a meeting, all the senators and all of the congressmen, to urge that the civilian government, the Attorney General, do something about removing people off the west coast. I explained to them, I said we won't do it, it's unconstitutional, and the civilian government won't touch it. They said you go back and tell Biddle if he doesn't do it we will get the Army to do it and they did.

General DeWitt, as this thing went along, found out gradually that his first modest proposals were unnecessarily modest, and he could widen them and get a great deal of political support, and he got it. Senator Sheridan Downey of California was one of very few politicians against the evacuation. But there we had not only the whole west coast congressional delegation -- and I don't even have to talk about the governors and the attorneys general and the

state legislatures who saw this as an opportunity to clear the west coast of Japanese Americans and their competition.

MR. MACBETH: Did the Department of Justice at any time after the Battle of Midway later in 1942 make any attempt to try to get this decision looked at again?

MR. ENNIS: I don't recall any such attempt. You mean after the evacuation occurred? The evacuation was being concluded about the time of the Battle of Midway.

MR. MACBETH: That's right but there's a lot of opinion that the military situation markedly changed with the Battle of Midway with American defense on the west coast was in a much stronger position than it had been before and some suggestion at that point the Government should look at this decision a second time.

Do you know of anything like that that was done in the Government?

MR. ENNIS: I have no idea once Humpty Dumpty was pushed off the wall and the evacuation was in progress that anybody ever thought that there was any possibility of changing this course of conduct during the war; and I can tell you now that although the Battle of Midway now, with our hindsight, may have seemed a turning point, I'm not sure it was even that clear. It was our first victory but as you know, there was an awful lot of fighting after that.

But even if it were considered at that time

that this was the turning point in the war and the rest of the war was going to be a slugging match which we would have to win, that any idea about while the war with Japan was going on, that any reconsideration of that decision or any movement of persons of Japanese ancestry back on the west coast was entirely fanciful. I don't think we ever thought of proposing it, and I think if we had thought of it in the Battle of Midway which was in May of '42, or something like that, we would not have proposed it to the President or to the Army, we would have thought it was sort of nonsensical.

MR. MACBETH: Simply because the situation was not --

MR. ENNIS: An action had been taken and that it would receive no acceptance at all that prior to the end of the war we should undo this, it would just be a losing side on the decision coming back with an inadequate argument.

MR. MACBETH: Did you have any experience with the internment of enemy aliens who were outside the United States?

MR. ENNIS: Oh, yes, we had two programs; one, we believed that the German submarines were being refueled in Cuba, so we set up a program with the Cuban government to intern German nationals on the Island of Pines, which is just south of Cuba as a place to intern those Germans and those German aliens whom our FBI picked out, and I

reviewed, my office reviewed, as persons who appeared to have dangerous connections and might be engaged in assisting the German fleet in this neutral country, Cuba. And I went down to Cuba and with our Ambassador, Mr. Braden, saw the foreign minister, and the FBI there had an office in Havana, arranged this program -- the office in Havana of course was in the embassy or consulate; it wasn't an FBI office. And we arranged such a program, and actually interned I can't tell you how many now, maybe a hundred people on the Isle of Pines and we were paying so much a day for them to be fed.

In monitoring the program I found two things; one, that the Cuban government of Mr. Batista was not using the money to feed them, they were not being fed properly; and two, they were arresting some Germans not submitted by us who had property in Cuba, some well-fixed, well-established. I cut off that program, I got the Attorney General's permission, and by this time the German submarine thing which was very, very crucial early in '42 -- you know you could stand on the beach at Miami and see ships going down which had been hit by Germans. That's where the warfare was, not on the west coast.

Of course nobody was talking about moving Germans out of the east coast at this stage because they did not have complete political connections. They were eligible to become citizens and all the rest; they were not an encapsulated group as the Japanese were.

By the time I stopped the Cuban program the German menace right next to our shores had ceased and we were fighting the German submarines in the Northern Atlantic where they were attacking our convoys.

Now the other program was taking alien enemies from other countries in South America. We had a program where we did take some German aliens whom we thought on the FBI records had dangerous Nazi connections. If we couldn't get those countries to intern them we had to transmit them to the United States for internment. Congressman Jonathan Bingham was in the State Department at the time, and Jack worked on that program with me.

It was not satisfactory. A writ of habeas corpus was threatened by one of the South American aliens who was in this country and we got rid of the program by sending -- we couldn't send the Germans to Germany, that was impossible at that time -- by sending them back to South America. It was an aborted program, I don't think it accomplished anything. It had a security purpose to do in these countries what we were doing in the United States, about 5,000 German aliens were interned, and a few hundred German aliens in Cuba and in other countries in South America. But it didn't work very well.

MR. MACBETH: There was a similar program with people of Japanese ancestry living in South America. Were you familiar with that?

MR. ENNIS: It would be the same program, whether they were Germans or Japanese it would be the same. We would try to pick out some people we thought were active enemy supporters.

MR. MACBETH: And in the repatriation again would be to Japan at the end of the war?

MR. ENNIS: That would have to be at the end of war, yes.

MR. MACBETH: But it would be to Japan rather than back to South America?

MR. ENNIS: Well, we had to wait until the end of the war, I don't think -- we wouldn't care, we would only repatriate to Japan. If a person wanted to go back to Latin America, the U.S. Government wouldn't care. The only problem there would be a political one if the government wouldn't accept them, then we might be forced to repatriate to Japan or let them stay here.

MR. MACBETH: Are you familiar with what took place after the war with that particular group?

MR. ENNIS: I don't remember; I don't have any file on it. But I think, like these three or four memoranda, this must be a great deal of material and in the State Department too.

MR. MACBETH: Thank you.

CHAIR BERNSTEIN: Congressman Lungren?

VICE CHAIR LUNGREN: Mr. Ennis, when you were speaking before of the renunciation proceedings, were those

different than or the same as the loyalty oath submissions that were made to a number of people in the camp?

MR. ENNIS: Well, the renunciation actions -- let's see now --

VICE CHAIR LUNGREN: Let me just explain. We had some people testify that one of the problems that occurred in the camps were they were required -- or the impression I received from the testimony we got, was that they were required to affirmatively show their allegiance to the United States, and I'm just wondering if that's the same program you were talking about in your renunciation, because those who didn't then were considered the disloyal ones, and I believe we had some testimony about that from Tule Lake.

MR. ENNIS: Well, unfortunately -- I was asked if I remembered this program, I don't recall. Now where the connection would be is whether when our hearing officers, under John Burling went out to set up the thing and our hearing officers, mostly lawyers, one or two immigration officers, whether in processing an individual man's application to renounce -- and honestly we tried to get everybody not to -- but as you know 5,000 did.

But in spite of that was the procedure to take a loyalty oath -- and my recollection is that it was not, that it was some other procedure, and I think it was the Department of Justice procedure.

VICE CHAIR LUNGREN: Did you ever come to a

conclusion as to why you had a much larger number actually afford themselves the opportunity to renounce?

MR. ENNIS: Oh, Yes, I think that I and my office made a serious psychological error when we concluded that only the thousand active would renounce, and that the resentment and the pressure which the thousand put on the other persons would not get others to renounce.

Obviously a lot of people who were deprived of their liberty and put in camps, this was perfectly an honest expression of what they felt, they just threw back their citizenship at us. That's why when I got out all these applications I decided the whole program was a mistake.

Two things; one, there was resentment; and two, the pressure that the pro-Japanese put on the others, which neither of which I properly appraised before I recommended that to the Attorney General.

VICE CHAIR LUNGREN: Mr. Ennis, one thing I want to get clear. You were talking about a conversation you had with Biddle, and I thought you said that he had related to you that he thought the evacuation order may well be unconstitutional but he did not raise the argument with the President because he felt the President could respond that military necessity was the underlying basis and therefore this argument would fail on that theory. Is that correct, or did he say --

MR. ENNIS: No, I'm not attempting to recall now 40 years later whether there was any particular

conversation with the Attorney General. I had offices across the hall, and on these matters I would see him very freely and this was a very exciting, disturbing time but I made it clear in a group of conversations with the Attorney General, that he would not go to the President and make my argument, which I frankly confess to you people a little bit, perhaps indiscreetly, that I wanted it made as a great political argument. He said "no, if it's done by the military I will not contend it is unconstitutional" and he got advice from distinguished lawyers, much more than I, that it would be upheld by the courts. He didn't believe it was unconstitutional. He just said to the President, you should not do this thing, it's wrong, there's no need to do it, it's foolish.

VICE CHAIR LUNGREN: What I'm trying to get at is this, you had mentioned that this was a product or at least a by-product of racial discrimination and I think we know this historical background in the western states against all Asians, Chinese as well as Japanese.

MR. ENNIS: Yes, sir.

VICE CHAIR LUNGREN: And yet you don't ascribe racial motivations to the President of the United States or the Attorney General or the Secretary of State, do you?

MR. ENNIS: Well, that's not an easy question to answer, but let me try.

I don't subscribe to those high officials, the kind of motivation I think that existed among the farmer

growers or among the west coast part of the population which hated and perhaps even feared the Japanese. But it is not possible to say there wasn't a racial element in the highest part of our government because there was no thought of doing anything like this with Germans or Italians in the war which was being waged with them, of treating them on a mass basis. As I said, whatever war activity was going on along our coast was the Pacific coast, not the Atlantic coast, so I think knowingly or unknowingly the Japanese American minority in our country were feared in a way that the German and Italian minority were not feared because of racial differences.

Of course I don't think that the bomb that was dropped on Hiroshima and Nagasaki would have been dropped on any city of white people.

See, things are very hard to explain about recall --

VICE CHAIR LUNGREN: I guess we could get into a big long argument on that but at the time we dropped the bomb weren't we planning an invasion of Japan in which we suggested we may kill as many as 10 million Japanese and we would take losses of 1 million, you're talking of about 11 million people killed. This is what goes on with the bomb.

MR. ENNIS: I believe that Franklin Roosevelt would not have dropped the bomb on the Japanese freely. I don't think he would have ordered it dropped to two civilian cities within three days apart without even an

opportunity for the Japanese government to react.

But as I should have brought up -- now the reason I brought up something as entirely different as the evacuation is to try to show as an example that -- suppose the enemy in the Far East was not of a different race but was a white race. Suppose it was Australian, and they had been part of our Western community and had been allowed to naturalize and all that.

VICE CHAIR LUNGREN: Do you really think you would have had the same panic on the west coast as you did with the Japanese Americans?

MR. ENNIS: I doubt it. You cannot relieve entirely the racial aspect of our dealing with the war of Japan differently than the war with white people.

Obviously I am not able to articulate that to your satisfaction, and not to my own. There is something there.

VICE CHAIR LUNGREN: Let me ask a question on a slightly different subject. As I understand it you were involved somewhat in the Japanese American Claims Act of 1948, is that correct?

MR. ENNIS: When I left the Government to practice law, I became for a short time the counsel for the Japanese American Citizens League. Of course, I had met during all these troubled wartimes the leaders of that organization, Mike Masaoka, and frankly when the war started I had never even spoken with a person of Japanese

ancestry. They became my friends and I did two things; I was Chairman of the Committee for Equality in Naturalization which got a racial bar removed from the naturalization law and then I was active in -- I went around the country to the Japanese American Citizens League chapters explaining the Evacuation Claims Act and urging the Japanese American lawyers to handle these claims as some rehabilitation for them.

VICE CHAIR LUNGREN: On that latter point, was that effort fatally flawed because of not enough funds or not a mechanism established that should be used or realized most effectively by the people involved or by reluctance on the part of the Japanese American community to participate that close to the experience, or do you think it was a flaw?

MR. ENNIS: No, as of 1948 I think the Evacuation Claims Act of 1948 was probably a fair expression of how the American people and its representatives in Congress were prepared to deal with this situation. They were prepared to consider actual property losses -- not for a lawyer who lost his practice or a doctor who lost his practice because otherwise they might have been in the military service anyhow but people that actually lost physical property -- real estate or personal property. Back in '48 that was about what we were willing to think about. What we are considering today was really unthinkable 30 or 35 years ago.

VICE CHAIR LUNGREN: Let me ask you about this

question, as a devil's advocate since I've had that question thrown at me, some say we did make an effort -- they don't get into the details of it, they just know we made an effort shortly after the war which was certainly almost contemporaneous with the mistake we made in relocating and evacuating the Japanese American and Japanese nationals -- and they posed the question to me, if we did that then in a good faith effort, should not that then be the end of that? Why should a subsequent generation be the ones to take up the burden now?

What do you say to that?

MR. ENNIS: I think the very simple answer is that at that time the horizons of our thinking of what our government was willing to consider was losses of physical property, whether it be real estate or personal property. However, it is since 1948 that our Federal Government and our states governments have developed the idea by statute and judicial decision that people should be remunerated by their government financially for losses of their civil liberties, of which the greatest is loss of freedom of action, detention. The purpose of that 1948 Act was entirely different from what I believe we are considering at this late date.

VICE CHAIR LUNGREN: Thank you.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: Mr. Ennis, do you know whether the President and his cabinet ever met on this issue?

MR. ENNIS: I don't think so I think, Senator, if they had met, I think I would probably recall it. All I can tell you is that I have no knowledge that they did discuss this.

SENATOR BROOKE: Was there ever a meeting between the President, Attorney General Biddle, Secretary Ickes, and the Secretary of War, Stimson?

MR. ENNIS: I think Harold Ickes was brought in on a crash landing but not on the take-off; I think Ickes and the Interior Department were only brought in when the plan developed to remove the Japanese Americans from the west coast.

I should also remind you or you probably would have gotten it elsewhere, I don't think the military were interested in detaining Japanese Americans. They were interested in getting them out of the area of Lieutenant General DeWitt's command, Western Defense Commander. He said well, I'll get them out of my command. I think that he even contemplated that they might be allowed to be assembled to move into the interior states on their own. But you must remember the feeling, thought to be stronger on the west coast than elsewhere. There was a genuine feeling at the beginning of the war when we were losing it, among the people of fear of this identifiable enemy, persons who looked Japanese and they were not accepted as residents inland.

So the detention program which we called a

relocation program only began when we saw that 120,000 people in this large group was not accepted. So then we had the camps and they were supposed to be for their protection, and the military police was around to guard them from any invasion by super patriots.

But it soon became clear that they could not move out into the communities on their own, so the WRA then got the regulatory system going to find jobs for young people in Chicago, particularly, and elsewhere, and moving them out individually; but as soon as you set up a regulatory system to deal with people who are in the camps, where they can't walk out the door on their own, they are under detention. It involved a couple of years of detention and I must tell you that many of the old people in the camps who spoke only Japanese didn't want to go any place, they wanted to stay put and be as comfortable as they could in these new camps, which were barriers, to be left there until the war was over. They had no desire to mingle among their hostile fellow white neighbors, I can assure you, during the war.

SENATOR BROOKE: Was it your opinion the President made this decision based on the recommendation of the military and the climate panic that existed in the country at that time?

MR. ENNIS: Yes, sir.

SENATOR BROOKE: Mr. Ennis, did you go to the mat with Attorney General Biddle at the time on this

constitutional question?

MR. ENNIS: No. I would think probably going to the mat would mean my views were not accepted and I would resign. That would be my idea and perhaps my views had changed too, just as I think all of our views have changed about whether there should be compensation for this.

I didn't see things as clearly as I do in retrospect. I made my decision clear to the Attorney General; he understood it, that's why he went outside the Department to get other opinions as to whether the military could do this constitutionally but the Attorney General became a friend of mine. Don't forget that after this was done and Hirabayashi and Korematsu were arrested, I handled the prosecutions, wrote the briefs and I defended military curfew and evacuation as an attorney for the Government. I also -- it just might interest you, the Attorney General sent me to Hawaii to stop martial law out there with the blessing of Ickes. You know it was a territory of the country back then and not a state -- and I went to Admiral Nimitz in 1943 and '44 and said this is all nonsense, we are fighting the Japanese away off in the eastern Pacific, why do you need martial law which has closed all the civil courts. You know if you got a ticket for speeding you were convicted in a military court.

I went out there and talked to Admiral Nimitz and General Richardson and said this is wrong, it's unconstitutional, you can't do that. They persisted so

of course six months later a boy working in the ship yards punched a Marine in the nose and he got five years from a military court and he brought a writ of habeas corpus proceeding in the U.S. District Court.

Then I went out again and I told Nimitz and Richardson, as I said why don't you quit now and turn it all back to the civilian courts and he said no, and when the writ of habeas corpus was to be served on General Richardson, his guards threw the deputy marshal over the front porch. So I found myself defending -- I was sent out there to defend that.

I lost in the district court, won in the Court of Appeals, and I asked to be relieved of the case because I didn't want to argue a case that I so strongly disbelieved in and the Solicitor General of the United States said no, you made the record in our trial and you go and argue and I'm sure you'll win.

I lost it 8 to 1, Mr. Justice Frankfurter dissenting without opinion.

SENATOR BROOKE: You have been very candid about your role, and in looking at your own participation in this, you became very active with and associated with the Japanese Americans in 1948. Do you think that had anything to do with your better knowledge of and the change, in strengthening your position as far as the constitution question?

MR. ENNIS: I don't think my knowledge of the

Japanese people, in fact many of them are my friends -- I'm glad this was brought out -- I don't think it has changed my position at all. This was exactly my position in January 1942.

SENATOR BROOKE: But it became stronger in 1948? And in 1948 you probably were looking at retrospect may have resigned from the Justice Department?

MR. ENNIS: I don't think in '48 I reached that point. I think if this thing happened now -- don't forget, Senator, in '46 I became a member of the Board of Directors of the American Civil Liberties Union and I've been a member ever since, whatever period of time that is, 35 years or so, and was general counsel for 20 years and chairman of the board for eight or ten years. Since I left the Government, naturally my work formed a lot of strong views about civil liberties, and I might take a different -- maybe I have a somewhat stronger position. I can't see myself now as I did then opposing the programs and then going in and defending them because as the attorney at the Department of Justice that was my responsibility.

I would say I think I might add here that despite this clear opinion -- Mr. McCloy will be here tomorrow -- when it was suggested to him that I should not argue the case in the Supreme Court of the United States, the martial law case, because of my views about it, and he said no, Ennis will give you a square shake we have complete trust that he will present our position

directly, even though we know he opposed it; and that was the position.

SENATOR BROOKE: Where was the ACLU and all the other civil rights organizations in 1941?

MR. ENNIS: The American Civil Liberties Union, both its locals on the west coast and the national office, opposed the whole thing, entered all of the cases, filed briefs in all the Supreme Court and lower cases, opposed all of this. But when you get in a wartime, you get something as strong as such a military act, what our private organizations can do is not much.

SENATOR BROOKE: One final question. The previous witness rejected the use of the word "internment," which incidentally appears in the name of this Commission, as you very well know.

Do you see any difference in terminology -- and I don't want to get into that.

MR. ENNIS: I understand -- was that Karl Bendetsen?

SENATOR BROOKE: The previous witness.

MR. ENNIS: I knew Karl very well, we had worked together on all of these. He ran the show for DeWitt. He was in charge of this whole business.

SENATOR BROOKE: And his views were very strong to distinguish between the alien Japanese and the Japanese Americans. But he rejected the word "internment" that there was no internment.

MR. ENNIS: Well, the only thing I can say to that, Senator, is that the camps I ran were internment camps for aliens of enemy nationality. Now when we came to this program we're talking about, you had assembly centers where people were assembled under all of the Army controls in order to be dispatched out of the western states to the interior War Relocation Centers.

We had assembly centers and then we had what were called official War Relocation Centers. Now what happened in the assembly centers and in the War Relocation Centers, is that people were detained. Now -- and that was the official language. We never in any of our voluminous briefs on this matter spoke of their detention as internment; I think simply because we had drafted that word to refer to the detention of alien enemies; and we just didn't use the word "internment" for detention which followed in relocation centers. I don't frankly see what the difference is. Someone told me that Colonel Bendetsen also objected to the use of the words concentration camps. I would not have called this a concentration camp simply because I thought that we, as a matter of separate use of the English language, had more or less appropriated that word for the German detention camps, and that since we have other general words like "detention" that we would use those.

And I could sympathize with the Colonel in objecting to the word "concentration camps" because nobody

was concentrated in the camp, either by fire or water or any other means and I visited these camps. The social workers who ran the WRA, I can assure you were not people who would make the people in their custody afraid of any physical violence.

What happened to them is that they were built very rapidly on dusty ground, which in the course of the year the inhabitants put flowers and grass down as things got a little better but they were very uncomfortable places to stay, but certainly there would be none of the fear of injury, except from their own pro-Japanese detainees with them. There would be no fear of injury from our people, from the Interior Department, Secretary Ickes and Abe Fortas' people were running the camps; and concentration camps to me has the idea of physical mistreatment and in that sense the word should not be applied to the WRA camps.

SENATOR BROOKE: Did you see any of these camps?

MR. ENNIS: Yes, of course. I used to regularly visit my own alien enemy camps, in fact I insisted that Attorney General Biddle go to the alien enemy camps, I said you're signing the orders interning these Japanese aliens, and separating them from their families, I want you to come out and see how they're living, and he said all right, I'll go.

SENATOR BROOKE: Mr. Bendetsen said that the troops or the soldiers that were used to guard these camps were not guarding from the inside, they were guarding

from the outside against persons from going into the camp rather than to have guards against having people leave the camps.

MR. ENNIS: Well, Senator, my understanding of that is that when the camps were established, the purpose of the military police around the camps was to guard them from any intrusion, that they were generally to be refugees. But once the WRA put into effect its regulations saying you could be released only through the process of our regulation and in the meantime you have to stay there.

I think whether by official order or otherwise, the guards then became not only guarding from ingress but also guarding from egress.

SENATOR BROOKE: Because I have pictures that --

MR. ENNIS: By the way, I don't think they operated inside the camps, the military.

SENATOR BROOKE: You don't think they did?

MR. ENNIS: No, I don't think they kept any order or anything inside the camps.

SENATOR BROOKE: But I have pictures here from the Archives; this one shows soldiers very close together -- can you see that picture?

MR. ENNIS: Yes, sure.

SENATOR BROOKE: And they have arms and rifles, helmets.

MR. ENNIS: What would be interesting is that during many disturbances in the camp, if they were brought

in by the WRA people to suppress them. Do you have any information what this was?

SENATOR BROOKE: No. These appear to be U.S. troops; these are not civilians.

MR. ENNIS: But that is during the movement to the camps.

SENATOR BROOKE: That is inside the camp, as I understand.

MR. ENNIS: They might be moving them into the camp.

SENATOR BROOKE: That's a possibility.

MR. ENNIS: Because when they moved them in, they had troops taking them from the assembly centers.

SENATOR BROOKE: And then I have another picture with two soldiers and machine guns plus two rifles.

MR. ENNIS: That looks like one of the guard towers.

SENATOR BROOKE: Are they looking out or in?

MR. ENNIS: They seem to be looking out there.

SENATOR BROOKE: I think they seem to be looking in.

MR. ENNIS: Since there is no indication one way or the other, I'm not sure.

SENATOR BROOKE: But at any rate, whether they are looking in or out, they're there?

MR. ENNIS: There's no doubt about it.

In my opinion there's no doubt about soldiers being there to prevent intrusion. As soon as it became

clear people could not safely leave the camps on their own looking for jobs or residences but had to be done under a WRA program, that then they would have a purpose of preventing egress as well as ingress, and that's what is unconstitutional --

SENATOR BROOKE: We have had testimony that one person was possibly shot trying to escape. Do you have any recollection of that?

MR. ENNIS: I never heard of that but when you're dealing with 100,000 people living in relatively close quarters, one person shot in four or five years with the military around, that doesn't shock me very much. It seems surprisingly little, actually.

SENATOR BROOKE: That might be true, but if the admission was to keep persons from escaping the camp, that is quite different, that's a policy.

MR. ENNIS: Well, if I were in your position I would try to find out the circumstances under which -- what was the event when this person was shot, it might shed some light on it.

SENATOR BROOKE: Well, we've looked into that. But at any rate you would agree that these camps did have armed guards, they did have barbed wire?

MR. ENNIS: Of course.

SENATOR BROOKE: Did you ever see dogs at the camp?

MR. ENNIS: No.

SENATOR BROOKE: No further questions.

MR. ENNIS: Also Senator, you must understand my visits there, since I was not in control of the Interior program, my visits there were infrequent; I probably saw each camp once, and I would go there since I was working with the WRA, they may have wanted to ask my opinion about some of these regulations. I had no supervision of anything, I was just a visitor, for the Department to defend them; I was their lawyer.

CHAIR BERNSTEIN: Senator Mitchell?

JUSTICE GOLDBERG: Mr. Ennis has testified for two whole hours, could we give him five minutes?

MR. ENNIS: Oh, no, this is not -- I mean if you want the time but I don't need any.

JUSTICE GOLDBERG: But just a stretch?

CHAIR BERNSTEIN: I was going to do that as soon as we completed this portion of the testimony.

SENATOR MITCHELL: You testified the Attorney General said there was no basis for evacuation. Now does that mean evacuation from the civilian point of view and he wasn't commenting on the military point of view?

MR. ENNIS: No, it meant both, Commissioner. The Attorney General and his Federal Bureau of Investigation with responsibility for internal security of the United States from the civilian population. His view was that there was no basis of any kind for removing a whole group of people from the western United States, not based on

information about individual acts or acts of hostility toward the Government.

SENATOR MITCHELL: But that is still not a constitutional question. When the question came down to that specific side of the problem in his mind?

MR. ENNIS: Well, he said there's no basis for moving these people but if the military do it, I believe that the courts will uphold them.

SENATOR MITCHELL: Is there anything --

MR. ENNIS: There's a constitutional right to be wrong.

SENATOR MITCHELL: Is there anything in the requirements or an Executive order that could be strengthened in this case to prevent this from ever happening again?

MR. ENNIS: I don't believe so. I believe that each emergency which is conceived by the highest official as a serious emergency makes its own law, and I've thought about it, and I don't see anything that could be done to limit the powers of the commander in chief and the Chief of Staff and the Secretary of Defense from acting as they thought they were required by the emergency situation, and I have not the remotest thought that Congress would seek to interfere with that kind of -- what would be conceived as an emergency in the national security.

SENATOR MITCHELL: You mentioned public clamor as one of the problems of the whole situation and I'm wondering if you have any suggestions there as to what

should be done?

MR. ENNIS: I don't think anything should be done because public clamor is an exercise of free speech to produce political results, and I don't think anything at all can be done about it.

SENATOR MITCHELL: Attorney General Biddle mentioned the problem and not repeating the mistakes of the first World War.

MR. ENNIS: He did in our own program --

SENATOR MITCHELL: Has that continued at this time, was his attitude on that strong all the way through?

MR. ENNIS: Completely strong.

As I tried to say earlier, that internal security against alien enemy, which was in our control, was partly a PR problem, that certainly the public in a war against Italy and Germany and Japan, would want more internees than we thought appropriate. But everybody that was picked up, every alien enemy, was given a hearing, and we decided -- my office decided whether he should be interned, paroled or released. In almost every case where I recommended parole or release and the Attorney General signed it, I got a memo from Mr. Hoover saying they opposed the release. Because if any one of these did anything, I would be holding the bag and the FBI would not be.

Well, this was all right with me, and we had no trouble with any of the persons, thousands of the persons who were released.

But we were always aware that we were dealing with the public conception of what security required, you see. For example, I recommended to Biddle and he recommended to the President that the Italian aliens be released from enemy status.

Now why did I do that? It was in '43 -- if you'll recall earlier the Italians were not enthusiastic about this war, and God knows the Italians living in the United States weren't. The public perceived that, Biddle went to the President and said we suggest releasing all Italians. The President's remark was "my God, that's a great idea, I wish I had thought of it."

So we went to New York and held a big show with Mayor LaGuardia and held a big party in Carnegie Hall on October 12th, Columbus' Birthday in '43, releasing all Italian aliens in the United States from enemy alien status.

JUSTICE GOLDBERG: Right before the election?

MR. ENNIS: I don't remember that but I'm giving you that as the other side of the picture of the public's conception of what security was needed. The public was prepared, the Italians were not a serious enemy, certainly the Italians living in the United States were on our side and not on the side of the Italian-German Axis.

SENATOR MITCHELL: One other question, what were the internee camps for Japanese in the United States?

MR. ENNIS: Where were they?

SENATOR MITCHELL: Yes, where were they?

MR. ENNIS: Well, we had one in the cold country, I know that.

SENATOR MITCHELL: Missoula, Montana?

MR. ENNIS: Yes. The Japanese camps were all in the West.

SENATOR MITCHELL: And the original people picked up by the FBI?

MR. ENNIS: Yes, before the war started we had a whole list of people. On Sunday night, December 7th, hundreds were picked up from a list of persons we had who had been former Japanese army officers and the like, people who had some connection, some of them had received a chrysanthemum decoration from the Emperor --

SENATOR MITCHELL: Are you satisfied that there were specific reasons for each of these?

MR. ENNIS: I'm satisfied that we had a record, an individual record on each person who was picked up, and in that record, there was a membership in some pro-Japanese organization which indicated some kind of possible allegiance, social, political, emotional, personal to Japan.

SENATOR MITCHELL: Was the Buddhist Church such an organization?

MR. ENNIS: No.

SENATOR MITCHELL: There has been a complaint in the hearings that Buddhist faith was ipso facto.

MR. ENNIS: I'm surprised at that. I don't

recall we considered any religion itself. The Shinto faith, I won't go into that, but there is a relationship with the Emperor. Maybe Shintoism we might have considered it but that wouldn't have been enough of a fact to arrest.

SENATOR MITCHELL: Thank you.

CHAIR BERNSTEIN: Father Drinan?

FATHER DRINAN: Thank you, Madam Chairperson.

You have been one of my heros for a long, long time Mr. Ennis, and I just want to thank you and commend you for this testimony.

MR. ENNIS: I don't deserve it.

FATHER DRINAN: This testimony has been extraordinarily clarifying to me.

On the question of compensation, do you feel some existing statutes could be the model for a statute that we could propose to the Congress, so that individual plaintiffs or class action suits could be brought up and the Japanese that were interned could get at least nominal damages just like the damages they were awarded by the federal court here in the District of Columbia where some 2,000 demonstrators were illegally confined.

Could you give us your thoughts on that matter?

MR. ENNIS: Well, of course you could recommend to the Congress that it pass such an enabling act to remove any statutes of limitation problem and have a class action. The trouble I have with it is not constitutional or legal but are you proposing that each

plaintiff prove individual personal damages?

FATHER DRINAN: I really want to follow the great genius of the ACLU to help frame this statute. They have been involved in cases like that, in fact they were the prime movers in connection with this case of 2,000 demonstrators against the war and frankly, I think the Commission -- I know I would recommend to the Commission, specific recommendations by the ACLU based on their experience in cases of this kind and counsel for the Commission has furnished the members with two very helpful memos about statutory schemes for reparation in the Indian War Claims, the Micronesian Claims and in the instances in these particular cases. I would think that that frankly would be more likely to pass than a lump sum for all of these people.

MR. ENNIS: Yes.

FATHER DRINAN: Would you feel that there would be any constitutional difficulties?

MR. ENNIS: Well, if Congress wants to provide a way for persons to go to court and prove losses and get paid, I don't see any constitutional -- perhaps the Justice Department would have a problem with this, that this would not a justiciable controversy within the Constitution. We cannot make the federal courts do administrative chores, it has to be a claims court.

FATHER DRINAN: Well, we've made this a tort. We would take the 1948 law and instead of restricting it

merely to property damages, we would say as you said so well, that they should get some type of recompense for the loss of their civil liberties, and waive the statute of limitations and waive certain rights, certain duties of provability. I would think that this would be a good welcome way of frankly to repeat, I think that the ACLU has such experience that they could be helpful to us.

MR. ENNIS: Well, if you wish -- I cannot as one member of the board speak for the Union beyond the written statement I have submitted but if you think it would be any help to the Commission, I'd be delighted to take it up with my President and Executive Director very carefully and see if we could make a suggestion by reviewing the various claims acts and see if we come up with a suggestion. If that would be helpful I'd be very happy to do it.

FATHER DRINAN: Thank you very much, I'm certain it would be and thank you again for your testimony.

JUSTICE GOLDBERG: Since I got concerned about you, I'm going to be very brief and relieve you of what has been two hours and 15 minutes.

MR. ENNIS: I might say I don't feel it now.

JUSTICE GOLDBERG: I share with Father Drinan in saying that nobody knows Mr. Ennis without his entire devotion to civil liberties, not only now or in his ACLU connection, but even in the Government during this period, and there is no question about it, the record is clear what your position is.

There are only two or three questions I would like to address your attention to. You mention that the Attorney General went to President Roosevelt in response to a question I think that one of the counsel asked (inaudible) -- including myself, to go to the reports, and what they may or may not be correct, perhaps you could concur in that. This is the part of the Attorney General's memoirs.

Although the decision has been handed down by the President in the Army and shared by many civilians, it is normal to expect the civilian branch of the Government to have a vision less narrow to see only the conceivable risks and to balance against them the seriousness of this basic violation of civil rights.

The President, as I have suggested was not troubled by such a consideration, obviously, he signed the order. If anything, he thought that right should yield to the necessity of war. Rights came after the victory, not before; he could probably have understood the popular pressure without loss to the tenacity of his leadership, pressure of the highly (inaudible). If Stimson had stood firm and insisted, as apparently he suspected that this whole state of evacuation was needless, the President would have followed his advice. And if indeed the (inaudible), I would urge the Secretary to resist the pressure of this responsibility, the result might have been different, but I was new to the cabinet

and just inclined to insist on my view to an elder statesman whose wisdom and integrity I greatly respected.

That would indicate certainly that the Attorney General didn't impress his view upon the President or Stimson. Isn't it highly unlikely he would have impressed it upon the President?

MR. ENNIS: When I first read that passage I was very struck by it, but it is really kind of an example, of the kind of a man Francis was, that he would write in his memoirs, gee, I didn't push hard enough on this older cabinet member and the President. Suppose it had been reverse, and Mr. Stimson was Attorney General and Francis Biddle had been the Secretary of War, what would have happened.

Anyhow, I really can't add anything to that, except that Biddle was the kind of a guy that would make a habit of confession like this, that he had not pushed as hard as he should.

JUSTICE GOLDBERG: The second question I have to ask is this. Since I come out of your generation and know the principals involved, there were ways to get to the President, Jim could have gone to Tommy Cochran who could have gone to the President, or someone else, maybe you could have.

One thing that adds up to the testimony we have had, which is disturbing to the future, and that is in every presidential administration is the possibility to

go to the President and say I can't do this, wouldn't you agree with that?

MR. ENNIS: Yes.

JUSTICE GOLDBERG: Now then, to finish you off quickly, you were asked by Senator Brooke a question which goes to the heart of the part of the hearing, and that is this, and it is part of our mandate, Mr. Ennis, how can we save that for the future, and you gave a very frank answer that in time of emergency you doubt it.

You were quoted, were you not, in your own language, a statement by Learned Hand, which I will read. "If the spirit of liberty exists in the mind of people no court needs, if the spirit of liberty is needed, no court need say that." Isn't that about it?

MR. ENNIS: Yes, except that even if the spirit of liberty existed, people trained in government should provide the theory by which that is expressed; if it might prevail. And let me tell you that in February of 1942, right after the war began, when there could be made approaches to the President, I really don't think anybody could have made an impression on Franklin Roosevelt who disagreed with a unanimous view of George Marshall and Henry Stimson on a military problem. You see they were not thinking about just doing what this commander of the Western Defense Command wanted, they were expressing what they thought was right, and I don't think they were right.

JUSTICE GOLDBERG: Part of our difficulty here is that you said you were being adverse here. Well, we don't know under our system, that's the kind of message where we try to bring out the truth.

But you mentioned George Marshall. In the record it appears that George Marshall had very little, if anything to do with this decision in the record.

MR. ENNIS: I never met the General, I never dealt with him and I actually sat next to Stimson but I don't recall discussing it -- but I sat next to Stimson's desk and discussed this. But I never saw Marshall in this thing until the Army report came out indicating that he had approved it.

JUSTICE GOLDBERG: But what I was saying is, the Pentagon records show that with all the other concerns, he was not participating very actively, he may have -- at the time but he was not very active.

And finally, there is in the record, and as you would know about or perhaps you wouldn't, an intimation, and I'm not a believer in conspiratorial history -- that the final deal on which military districts are created with the concept that you need passes to come in and out, which was never exacted by anybody, Japanese were thrown out and no other white person had to have a pass to go in and out of California; that was worked out as a kind of a compromise between the Department of Justice's opposition, yourself on constitutional grounds, General Biddle on

moral grounds, and the War Department's insistence that this was worked out, that military districts would be created, this would be a way of satisfying constitutional public requirements. Is there anything that appears in some of the documentation --

MR. ENNIS: Yes. It must have been dealt with so slightly, Mr. Justice, that I had generally forgotten all about that until it was called to my attention today.

JUSTICE GOLDBERG: It is a long time ago.

MR. ENNIS: If it were seriously examined as an alternative, I think I would remember even after all these years.

JUSTICE GOLDBERG: Thank you.

Do you mind if I correct a mistake and then correct Colonel Bendetsen.

I asked Colonel Bendetsen, when you talk about a necessity, General Clark and Admiral Stark had said there wasn't and he corrected me at the time by saying his statement came later. During the recess I have looked at the record and both of the testimony was delivered to Congress before the Executive order was issued, so that statement by these two great military heroes of ours was in the record.

Secondly, I made a mistake and I would like to correct it. I said the British handled that on an individual basis. I was not correct, I checked back. They did at the beginning of the war. Then under pressure,

they changed and they rounded up 70,000 German aliens. Then there was a reaction from the British public, so I was not entirely wrong; there was tremendous reaction for this act which offended the British fairness and fair play, and they were all dumped out except importations, and thereafter all internees, German aliens were dealt with on an individual basis.

Thank you.

CHAIR BERNSTEIN: Dr. Flemming, I think had one question.

DR. FLEMMING: Just one quick question.

Did the Solicitor General participate in the discussions prior to the issuance of the Executive Order? On the constitutional issue?

MR. ENNIS: I don't recall that he did. Do you remember if it was Charles Fahy, [who] was the Solicitor General at the beginning? He was at the time of the Supreme Court cases because we had some fairly fiery discussions about the content of the brief and he said I don't have to sign it but we were very good friends. And if he were -- I really don't remember Charles being in on that.

DR. FLEMMING: I'm not sure when he took office either.

MR. ENNIS: I just don't recall it.

SENATOR BROOKE: I have just one brief question, Mr. Ennis.

Do you know of any incidence where persons tried to break into one of these camps or did they break into one of these camps?

MR. ENNIS: No.

CHAIR BERNSTEIN: Mr. Ennis, I cannot add anything to this, except to the praise and thanks of this Commission for your attendance and your recollection, I may add. It has been extraordinary and thank you very much.

MR. ENNIS: You're very welcome.

CHAIR BERNSTEIN: We will take a 10-minute recess, ten minutes only.

(Short recess was taken)

CHAIR BERNSTEIN: May we come to order, please. Because we are running so late, Mr. Calvert Dedrick who has been waiting patiently has cordially agreed to come back tomorrow when we think we will have more time.

So our last witness today will be Mr. Laurence Hewes, former Western Region Director, Farm Security Administration.

Mr. Hewes, welcome.

STATEMENT OF LAURENCE I. HEWES

MR. HEWES: My memory is not as good as it used to be. I have no prepared statement.

CHAIR BERNSTEIN: I see. Did you want to prepare a brief summary or go straight to the questioning.

MR. MACBETH: Perhaps we could ask Mr. Hewes to

briefly summarize his experience as he set out in his chapter of the book, you really treated that as a statement, and perhaps you could take just a few minutes to describe briefly the experience of the Farm Security Administration and the evacuation program.

CHAIR BERNSTEIN: Is that agreeable, Mr. Hewes?

MR. HEWES: Yes.

I was a regional director of Region 9 of the Farm Security Administration, which was a subdivision of the Department of Agriculture and I was stationed in San Francisco, my office was at Market Street and Van Ness Avenue.

On or about February 19th, I was called by General DeWitt, who told me that my name had been passed to Secretary McCloy by Milton Eisenhower and that that information had been passed on to General DeWitt, and the General -- General DeWitt -- said that I was expected in his office immediately and that transportation would be furnished by the military and almost simultaneously a white jacketed, white helmeted, white gloved, white cross belt sergeant came into my office and said, Mr. Hewes, your transportation is downstairs.

So I went out Van Ness Avenue and turned north to the Presidio, and there I encountered a colonel who was an adjutant to General DeWitt and he told me that I was nominated by Secretary McCloy to represent the Department of Agriculture on the west coast, and that my

duties in general were outlined in Executive Order 9066, and proceeded to tell me what I was to do. And I interrupted the General and said I was opposed to the entire evacuation and that he should know that before he went any further.

And he said we are at war, you have received instructions from the commanding general, and your President has signed an Executive order, that includes you, and I want to know whether you are going to obey orders or not? And I thought deeply and I decided I was going to have to buckle under and I did.

And the next day I received orders from General DeWitt, which -- oh, I received a phone call from General DeWitt; and the next day I received a letter which in effect [said] I was to institute and administer a program which will ensure continuation of the proper use of agricultural land voluntarily vacated by enemy aliens and other persons designated by proper authority which will ensure fair and equitable arrangements between the evacuees and the operators of their property.

I received another letter which was signed by Colonel Bendetsen, who was at that time, I think a Major, to do everything reasonably necessary to prevent any crop loss, subsequent to evacuation and to reduce to a minimum the spoilage of growing crops, to assist the evacuees in providing a substitute operator at the same time to preserve the evacuees' equity to the fullest extent

consistent with the circumstances in each case; if necessary to take over and operate properly where in the absence of such action, growing crops would be neglected or abandoned, or where the evacuees' equity, though of reasonable substance, would otherwise deteriorate.

Shortly thereafter, I was the head of the Farm Security establishment in San Francisco, met with Bendetsen, and we were told that in short order the Army would have established 48 field stations and we pushed people off airplanes and on the basis of priorities assigned by the Army and were able to meet the deadline which Bendetsen established on the following day. We were able to meet our commitment to the staff in 48 field offices.

And we proceeded to locate substitute operators for the Japanese evacuated farms or farms which were to be evacuated and we proceeded to operate with that program until it was determined that we had completed our assignment which was August of 1942.

That is the barebones of the work of the Farm Security Administration and I would like to say that the Farm Security Administration was totally out of sympathy with the evacuation, and that went for all of the people that I appointed, the various field offices. We regarded from the very outset the evacuation order as a gesture of military derring-do, which was unnecessary and which was totally in violation of the constitutional rights, but we had no option, we were caught up in Order 9066,

and therefore we had to do what we were required to do.

Now I'll be glad to answer any questions but that's the barebones and the attitude in which the Farm Security Administration participated in the Japanese evacuation from the west coast.

CHAIR BERNSTEIN: Thank you Mr. Hewes.

I think we will maintain the same order that we had established earlier this afternoon.

Father Gromoff, do you have any questions?

FATHER GROMOFF: It is stated that they didn't have any evidence against Japanese Americans. Why were they put in camps if they had no hostilities towards the United States?

MR. HEWES: That was something that we had nothing whatever to do with, sir. We were placed -- our people were placed in a field office, and people came in and they were going to be evacuated and we had nothing to do with designating who or what was the circumstances with which they were nominated for evacuation.

FATHER GROMOFF: Thank you.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: Mr. Hewes, just so that I can try to clarify in my own mind the functions and purposes of the Farm Security Administration, you were to preserve the properties, the farming properties of the evacuees?

MR. HEWES: Yes.

JUDGE MARUTANI: And also to harvest the crops?

MR. HEWES: Also to protect the crops, the growing crops. We urged the present operators, who were persons of Japanese ancestry to remain in full possession until such time as they were evacuated, to continue to operate the farms and the crops and that meant in the case of California, irrigating and applying pesticides.

JUDGE MARUTANI: Well, by May or June, most of the people, if not all of the people, had already been placed into the camps. What was done with the proceeds from the yield?

MR. HEWES: That was again something that I had nothing -- Farm Security had nothing whatever to do with. That was taken over by the War Relocation Authority.

JUDGE MARUTANI: I guess that's all I have, thank you.

CHAIR BERNSTEIN: Dr. Flemming?

DR. FLEMMING: I was interested in the material that you submitted to us in this statement. You say "In our anxiety to find substitute operators, we were forced to accept substitute tenants who were mainly motivated by an opportunity to capitalize on high wartime prices for agricultural products and the misfortunes of the evacuees, many had not had any long farm experience. What the evacuation would accomplish, among other things, was that the displacement of a very successful agricultural system."

I assume from the last statement, the last

sentence, that agricultural production dropped as a result of this exchange of inexperienced operators for experienced operators, am I correct in that assumption?

MR. HEWES: Yes, indeed.

That was the point I wished to bring out, that the loss incurred was because of the misapprehension on the part of many of the substitute operators that the yields of specialty crops under Japanese management was due to the innate qualities of the soil. They were due to the qualities of the Japanese operators and nobody could substitute for that. The substitutes were not willing to work as hard and they were not equipped with the knowledge of the agronomic requirements.

DR. FLEMMING: We felt that the agricultural production was a very important part of our war program. What -- before you turned or completed this operation, how many of the original operators, Japanese American operators returned -- I appreciate you might not have exact statistics, but could you give us some feel in terms of order of magnitude?

MR. HEWES: I can give you, I have that response -- comprising over a quarter of a million acres was transferred to Caucasian operations and at the cost of $4 million, and the administrative costs of making that loan was $226,857.53 and Bendetsen became a full colonel.

DR. FLEMMING: Did most of the original operators return before you terminated your operations?

MR. HEWES: No, sir, I can't answer that. The reason for it was that immediately on the termination of the functions of the Farm Security Administration, all the documents and the papers were turned over to the Army, we turned them over to the War Relocation Authority, and so as of August 8, 1942, our responsibilities ended, and I saw that completely; I wanted to wash my hands of the whole thing.

DR. FLEMMING: Thank you.

CHAIR BERNSTEIN: Mr. Macbeth.

MR. MACBETH: What were the relations with the Western Defense Command like in the period you were running this program? You have an example or two in the material you have submitted that you indicate the fact it was very substantial support at the times you discuss. Was that typical?

MR. HEWES: I can't hear you.

MR. MACBETH: Excuse me.

I was inquiring to the nature of your relations with the Western Defense Command at the time you were operating this program. You described a couple of places where you got substantial monetary support. Was that generally the course of your dealings with the Western Defense Command?

MR. HEWES: Yes, I was anxious to avoid any

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Executive Order 9066 and since I had the responsibility of representing the Department of Agriculture, I was exceedingly anxious that the relationships with the military be smooth and it was.

MR. MACBETH: Well, you had an adverse view as to the wisdom of the evacuation order. Did you in fact have any adversity of view on the operation of the program for taking over and attempting to protect the farming interests?

MR. HEWES: So far as we were concerned, with the recognition of the fact that the substitute operators were not of the quality of the previous operators, the replacement of the substitute manager was without incident, with one exception -- and that was when I invoked freezing power -- and that was removal of the property from the owner and posting of the property. This was an Italian woman and she refused to permit a substitute operator to take over the lease of a Japanese tenant.

MR. MACBETH: I just want to be sure that you have no difference in opinion with the military people from the Western Defense Command and the operation of the farm program, is that right?

MR. HEWES: They surprised us and I must admit they did an excellent job.

MR. MACBETH: In providing you with whatever you needed in the way of funds or other kinds of support?

MR. HEWES: When I had to move people around by

air, for example, the air priorities were forthcoming immediately and when I had to consult with representatives of the Japanese American Citizens League, they were given permission by the Army to be out after curfew.

MR. MACBETH: You describe in some of the materials the situation, the population in the west coast indicating that there was a great deal of almost direct hostility toward the Japanese American citizens. Could you describe a little bit what that situation was like in the rural areas in your own experience?

MR. HEWES: Well, the best illustration I can give you is the California War Board. This was composed of state and federal officials connected with agriculture, and I think I have covered that in a book I have written. The motion was made to deny the Japanese all federal licenses to buy bailing wire, pesticides, seeds, and so forth.

And I took that opportunity to say that the Farm Security Administration saw no reason whatever for denying the Japanese access to the full line of services that the Farm Security Administration had. I was warned that I was in opposition to the state agricultural opinion and that I probably would be fired from my job and that I would have difficulty in finding another job.

So the subsequent motion, subsequent to my statement, was that the majority of the War Board did not hold similar points of view and I was made to feel that

I was an outcast from the agriculture establishment, both state and federal.

MR. MACBETH: If you had been in charge of the Federal Government on the west coast, what steps would you have taken, what would you have proposed to attempt to protect Japanese American citizens from incidents of this sort and other kinds of brutalitarian actions that were taken or talked about?

MR. HEWES: Well, my position was that the Federal Government had the strength and the power to declare a form of protection that would extend to all persons of Japanese ancestry, that was my position and I think the position of my associates.

MR. MACBETH: Thank you.

CHAIR BERNSTEIN: Congressman Lungren?

VICE CHAIR LUNGREN: Mr. Hewes, just to get this correct, with respect to those farms that were under the control of Japanese citizens and Japanese nationals who were caused to be relocated, in every instance in which it came to your organization's attention that they were to be relocated, was there an effort to get substitute operators?

MR. HEWES: A very strenuous effort to get substitute operators.

VICE CHAIR LUNGREN: How was the information made available to the Japanese American farmers that this was in fact available to them?

MR. HEWES: Well, at the outset, if you put yourself in the place of the Japanese farmer who was being evacuated by the Government, a government officer coming around to get him to sign a lease or a release I mean, of his occupancy rights, would be regarded with suspicion and they were suspicious. The Japanese and citizens of Japanese ancestry were suspicious, and preferred to find their own substitute operators. And we had the power to review the arrangements that they made, and we did and subsequently some of them turned out to be fraudulent. They were taking advantage of the fact the Japanese had to go.

So there was a period of, I think two or three weeks, where the Japanese were hostile and then we got $1 million from the Army and some way or other that broke the back of the Japanese suspicion. The fact that we had gotten a million dollars which could be used to finance the substitute tenants of their own selection without pressure. And that in fact we employed Nisei in our field offices. I know that in Seattle and in the Northwest, we had a very large number of Nisei employed directly by the Farm Security Administration and these people were exceedingly helpful in bridging the cultural gap which existed between the Anglo-Saxons and persons of Japanese ancestry.

VICE CHAIR LUNGREN: Can you tell me in these efforts to either actually obtain a substitute operator

or to review the agreements that were made already, what was the period of time, the term of arrangement? Was there an effort by the Government to try and see if the arrangements could be extended for the period of time that these people would be relocated or was it in most cases a yearly agreement?

MR. HEWES: It was for the duration of the war and one day, I think. I think that was the legal terminology.

VICE CHAIR LUNGREN: Did you ever have an opportunity to follow up studies?

MR. HEWES: No, we didn't want to. We were glad to be through with it; it was a nasty business.

VICE CHAIR LUNGREN: Did you remain in the agricultural industry?

MR. HEWES: Yes.

VICE CHAIR LUNGREN: In the Government?

MR. HEWES: Yes.

VICE CHAIR LUNGREN: Based on your personal experience, do you have any idea -- not the total number of people that went back but whether a significant number of those Japanese or Japanese Americans were able to in fact return to the farms that they left?

MR. HEWES: Oh, yes. Yes, I think a majority did, I can't vouch for the fact that 100 percent did return but their farms were there.

VICE CHAIR LUNGREN: But they were not in the condition that they had left them --

MR. HEWES: No.

VICE CHAIR LUNGREN: -- because the substitutes were not nearly as good as they were?

MR. HEWES: That is correct and some of the farms were abandoned.

VICE CHAIR LUNGREN: Thank you.

CHAIR BERNSTEIN: Thank you.

Senator Brooke?

SENATOR BROOKE: We had considerable testimony to the effect that many of the Japanese American farmers were forced to a quick if not a forced sale, and many of them lost their homes or were required or objected to selling their homes at ridiculously low prices of value, do you know that?

MR. HEWES: Senator, between the execution of Executive Order 9066, which was in February, and the staffing of the setting up and staffing of the field offices of the Wartime Relocation Administration and the Army, there was a period of about a month and in that period of time, many Japanese were panic-stricken, and they executed voluntary lease agreements. And when we came into the picture, we sought to overturn the losses we thought were obviously fraudulent and substitute others for them. There was no doubt that there was a loss involved in the transfer of some of these properties.

The substitute operators were nowhere near the quality in the able management or in motivation. The motivation of most of them was to make a quick buck out of the distress of the persons of Japanese ancestry.

Now what could have been done about that, I don't know. If we had more time -- sometimes there was only five days between the issuance of the exclusion order and the evacuation. And that 5-day period was nowhere near enough time to get an adequate substitute, so we had to take what we could get. We got people who were motivated by greed and a desire to make money out of the distress of the Japanese.

SENATOR BROOKE: Did you have any jurisdiction over the sales, outright sales?

MR. HEWES: No.

SENATOR BROOKE: You could not reverse a legitimate sale that was made even though the price may have been very low for the property?

MR. HEWES: No.

SENATOR BROOKE: You had no such power?

MR. HEWES: Well, in the first place, most of the Japanese farms were under lease and there was very little real estate transaction.

Now where the loss came in was in the equipment, motorized equipment, and the houses which went to pot very rapidly.

SENATOR BROOKE: How long did you perform this

function for the government?

MR. HEWES: From the date which was, I think February 16th or 17th until August 8th.

SENATOR BROOKE: Of that same year?

MR. HEWES: Yes, 1942.

SENATOR BROOKE: So you were not present when many of the Japanese farmers ultimately returned to the farms?

MR. HEWES: Only from hearsay.

SENATOR BROOKE: You have no such records that would be helpful to us in this regard?

MR. HEWES: No.

SENATOR BROOKE: It would be your successor agency that would have those records, would it not?

MR. HEWES: The War Relocation Authority or its successor.

SENATOR BROOKE: So you turned over your records to them?

MR. HEWES: Yes. In the first place to the Army, and they in turn turned them over --

SENATOR BROOKE: To War Relocation?

MR. HEWES: Yes.

We were responsible directly to Colonel Bendetsen.

SENATOR BROOKE: Thank you.

CHAIR BERNSTEIN: Senator Mitchell?

SENATOR MITCHELL: What proportion of 7200, what proportion would that be of the total number of

Japanese farms which was transferred -- not transferred, but there were to be transferred?

MR. HEWES: All of them.

SENATOR MITCHELL: You mean there were only 7200 Japanese farms in the entire west coast?

MR. HEWES: Yes.

SENATOR MITCHELL: Then what is the $4 million?

MR. HEWES: The $4 million was a fund that was used to finance the processors and the larger scale substitute operators and the money was used by them to finance in turn substitute operators.

In other words, let me make the position clear, many of the Japanese were under contract to the processors, Hunt Brothers and Cal-Pak and outfits like that. And these people were very much disturbed by the possibility that their flow of supplies were going to be interfered with. So we suggested to them that they form corporations, subsidiary corporations, whose object it was to get substitute operators. And they got substitute operators, and as the substitute operators needed financing, they were given financing out of this fund.

SENATOR MITCHELL: Were these 7200 farms included in the lease farms, the leased farms?

MR. HEWES: Well, they were all -- practically all of Japanese operations on the Pacific coast were leased operations. In other words, this was a question of sub-leasing. Our biggest problem was finding sub-

lessors.

SENATOR MITCHELL: You're not talking really about the sale of a farm. A good many of the farms in the State of Washington were owned by the Nisei children.

MR. HEWES: Yes.

SENATOR MITCHELL: And leased from them?

MR. HEWES: Yes.

SENATOR MITCHELL: And that, from your point of view, would be the same category as just a leased farm?

MR. HEWES: Yes.

SENATOR MITCHELL: And the $226,000, that was the cost of your organization?

MR. HEWES: Yes.

SENATOR MITCHELL: Doing the work?

MR. HEWES: Yes.

SENATOR MITCHELL: Just one other question.

You have read the 1942 report of General DeWitt?

MR. HEWES: Yes.

SENATOR MITCHELL: Do you generally agree with his conclusions on the success of the agricultural program?

MR. HEWES: I can't recall -- it was 40 years ago, and I don't recall what it says. What did it say?

SENATOR MITCHELL: Everything went perfectly.

MR. HEWES: Well, it didn't.

SENATOR MITCHELL: Never mind. Thank you very much.

SENATOR BROOKE: You wouldn't go that far, would you?

CHAIR BERNSTEIN: Justice Goldberg?

JUSTICE GOLDBERG: First, I want to thank you for your testimony and for your book of written material; it was very illuminating.

I take it that the leasing arrangements for farmers in California was largely due to the inhibitory legislation which existed at the time.

MR. HEWES: That's right. In other words, the Japanese or persons of Japanese ancestry -- were not eligible to own real property.

JUSTICE GOLDBERG: Thank you very much.

CHAIR BERNSTEIN: Are there further questions?

If not, Mr. Hewes, may I add my thanks to your eloquent and helpful testimony, and we thank you.

MR. HEWES: I'm sorry I wasn't very helpful.

CHAIR BERNSTEIN: You were extremely helpful. It couldn't have been better. Thank you again.

Thank you all in the audience for your participation. It was a very long but very fruitful day, I think.

We stand in adjournment until 9 o'clock tomorrow morning.

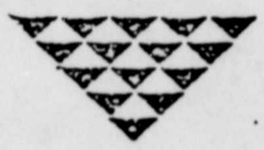
(Whereupon, at 5:50 p.m. the Commission adjourned, to reconvene at 9:00 a.m. on Tuesday, November 3, 1981.)

File

From: "Proclamations, Exclusions, Restrictive Orders and Collateral Documents." Western Defense Command and Fourth Army. Office of Assistant Chief of Staff. Civil Affairs Division. Wartime Civil Control Administration. San Francisco, California. 1942.

The Story of

PACIFIC COAST JAPANESE EVACUATION



An Address Delivered Before the Commonwealth Club of San Francisco on May 20, 1942, by

COLONEL KARL R. BENDETSEN, G.S.C.
UNITED STATES ARMY

ASSISTANT CHIEF OF STAFF
WESTERN DEFENSE COMMAND AND FOURTH ARMY

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RG 338. Appendix volume, "Proclamations, etc." - DeWitt Final Report 1861

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The problem of evacuation of all persons of Japanese ancestry from the Pacific coastal frontier is one that interests the people of the United States. Especially is it one that interests members of the Commonwealth Club, as well as all persons resident in this coastal area.

First, I should like to tell you something of the reasoning behind the evacuation of all persons of Japanese ancestry from this coastal frontier.

There are three principal dangers—hence, three principal problems bearing upon internal security in time of war. These problems, and the methods used to combat them, are described, ordinarily, in these terms: Anti-sabotage, counter-espionage and counter-fifth column. By the latter is meant action in concert by well-organized groups under raid or invasion conditions.

The relationship of the Japanese population to these dangers, following the outbreak of war, became a problem peculiar to the West Coast. The Japanese community presented a group with a high potential for action against the national interest—I will comment more fully on this in a moment. To approach the problem as one involving only alien enemies would be to suggest, first, that the danger, if any, would emanate from alien Japanese alone, a group of persons whose average age is well above sixty years. Also, it would be to suggest that every alien Japanese is a potential saboteur or espionage agent; and, perforce, to suggest the converse.

By design, or by accident, substantial numbers of the Japanese coastal frontier communities were deployed through very sensitive and very vital areas.

Now, if you and I had settled in Japan, raised our families there and if our children and grandchildren were raised there, it is most improbable that during a period of war between Japan and the United States, if we were not interned, that we would commit any overt acts of sabotage acting individually. Doubtless, in the main and irrespective of our inner emotions, you and I would be law abiding.

But when the final test of loyalty came, if United States forces were engaged in launching an attack on Japan, I believe it is extremely doubtful whether we could withstand the ties of race and the affinity for the land of our forebears, and stand with the Japanese against United States forces.

To withstand such pressure seems too much to expect of any national group, almost wholly unassimilated and which has preserved in large measure to itself, its customs and traditions—a group characterized by strong filial piety.

It is doubtless true that many persons of Japanese ancestry are loyal to the United States. It is also true that many are not loyal. We know this. Contrary to other national or racial groups, the behavior of Japanese has been such that in not one single instance has any Japanese reported disloyalty on the part of another specific individual of the same race.

There has been no substantial evidence of manifestation of nationalistic fervor exhibited by any Japanese group in the United States since the outbreak of the war. Even on the Emperor's birthday there was no visible evidence that the day was remembered in evacuee centers.

This attitude—well illustrated, I think, by the fact that there has not been a single instance when any Japanese has reported di:

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loyalty on the part of another of the same race—may be, and can be a most ominous thing. Chasing specters of fear is merely exhausting. It accomplishes nothing. The Army least of all will expend its energies in that direction. But it must be realistic—the nation must be realistic. The real contingencies must be taken into account. The contingency that under raid or invasion conditions there might be widespread action in concert — well-regulated, well-disciplined and controlled—a fifth column, is a real one. As such, it presented a threat to the national security and therefore a problem which required solution.

Here, in brief, is a timetable of how that problem was met.

On February 19th the President of the United States delegated to the Secretary of War the power to exclude any person, alien or citizen, from any area which might be required on the grounds of military necessity. This delegation of power included the authority to carry out an evacuation program.

The following day these powers were delegated by the Secretary of War to Lieutenant General J. L. DeWitt, Commanding the Western Defense Command and Fourth Army. Responsibility for a solution of the problem relating to Japanese along the coastal frontier became his.

The development of a program depended in part on enactment by Congress of the necessary sanctions, upon which enforcement could be predicated. This was done on March 21st with the approval of Public Law 503, 77th Congress, making it a misdemeanor to violate any published regulations made applicable by Commanding General under the Executive Order to the right to enter, remain in, or leave the military area.

On March 2nd, General DeWitt by Public Proclamation Number One designated the West half (roughly) of Washington, Oregon, California and the South half of Arizona as Military Area No. 1. There were created certain prohibited and restricted zones. In establishing these military areas, General DeWitt announced that Japanese aliens and American born persons of Japanese lineage would be the first required to evacuate certain critical points to be designated. At this time it was also indicated that following the evacuation of critical areas there would be a gradual clearance of all of the coastal area and all prohibited zones.

By order of the Commanding General on March 10, the Civil Affairs Division of the General Staff of Western Command and Fourth Army was created. It was charged, under the Assistant Chief of Staff for Civil Affairs, with responsibility for formulation of plans and directives for "Control and exclusion of civilians, including the designation of military areas". On March 11, 1942, the Wartime Civil Control Administration was created by order of General DeWitt. It is the operating agency of the Civil Affairs Division under command of the Assistant Chief of Staff for Civil Affairs to carry out such plans and directives.

On March 18, a Presidential Order established the War Relocation Authority. It is charged with responsibility of selecting, preparing and operating permanent centers where evacuees may live and work for the duration of the war, and to supervise all work and employment of evacuees both in and out of such centers.

On March 29th an order was issued by General DeWitt prohibiting voluntary migration by the Japanese. This date marked the beginning of planned, supervised evacuation.

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On May 31st, the interim evacuation of the Japanese population to temporary Assembly Centers will have been completed, except for 2000 who will be evacuated by June 6th.

This timetable represents the highlights of the undertaking.

The evacuation program itself consisted of three interim steps and a final solution.

The first step was designation of military areas from which the Japanese were to be excluded and the voluntary migration which followed. Encouragement was given to the voluntary migration from Military Areas and an effort was made on the part of some groups of Japanese to locate in other states. Altogether about 6000 Japanese moved inland, but voluntary migration, on the whole, proved to be impractical because it was not accepted. The Army had in mind from the beginning that the major extent of the movement of the Japanese from military areas would have to be undertaken as a completely organized, controlled and supervised operation. The Army's job, however, called for the evacuation of 113,000 people and this involved development of means to assist evacuees in the disposition of homes and businesses, farms and crops, equipment and property and innumerable problems of personal adjustment as well as finding and preparing temporary locations for the evacuees.

The second interim step was a plan for immediate evacuation if developments required. The Army needed time to prepare a permanent program and the situation called for an emergency plan. It was impossible, of course, at this time for the Army to reveal the fact that it was prepared to affect a complete evacuation, practically overnight, in the event of an emergency. Plans were made to move the 113,000 Japanese into already established Army cantonments in a Mass Movement which could have been undertaken immediately. Prepared in this way against the possibility of fifth column activity, or for any outbreaks of anti-Japanese feeling, the Army continued with its plans for a permanent program.

The third interim step was the selection and preparation of eighteen temporary Assembly Centers to which the Japanese could be quickly removed for later transfer to permanent locations. The decision to remove the Japanese to temporary Assembly Centers was based upon several important considerations. In the first place, the use of fairgrounds, race tracks and other public properties which provided installations of utilities as well as convenient locations, contributed to greater speed in the evacuation program. The use of these properties also made it easier to protect the evacuees' welfare and property. Moreover, evacuation through these centers could be accomplished with the use of a minimum number of soldiers.

The final step in the program is the settlement of evacuees in the permanent centers operated by the War Relocation Authority. This is the phase of the program that has taken more time than was available considering the necessity for early evacuation. It was primarily to prepare for this concluding phase of the evacuation program that the methods described were employed in the preliminary or interim steps.

The actual operation of the program is under the Civil Affairs Division of the General Staff of the Fourth Army and Western Defense Command. In direct charge of the evacuation operation is

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the Assistant Chief of Staff who serves as head of the Civil Affairs Division of the Fourth Army Staff and of the Wartime Civil Control Administration.

In addition to the military, the Wartime Civil Control Administration includes representatives of all Federal departments and civilian agencies involved in the evacuation job.

The Federal Reserve Bank of San Francisco, has assisted Japanese in the disposition of their property including leases, transfers, merchandise, automobiles and household furnishings.

The Department of Agriculture through the Farm Security Administration has undertaken a program of resettlement of evacuated lands and the protection of growing crops.

The Federal Security Agencies, through the United States Employment Service, the Social Security Board, and the United States Public Health Service, have given important assistance at several stages of the evacuation centers.

The Department of Justice has had difficult legal problems and its Federal Bureau of Investigation has made an important contribution.

The Works Progress Administration has provided civilian personnel to handle under army direction the management and operation of the evacuation centers.

The Department of Commerce through the Bureau of Census has provided highly qualified statistical and research personnel and service.

The Office of Emergency Management has assisted in administrative operations.

So far we have considered the problem that confronted the government and the nation, the time table of important developments in meeting the problem, the major step in the evacuation program, and the administrative authority and organization in charge of the program. This brings me to the actual details of how the evacuation is carried on.

There are 64 W. C. C. A. stations on the coast through which the Japanese are given necessary assistance. In each station there are representatives of each Federal agency directly involved. For example, the Federal Security Administration provides a receptionist; a social worker who is prepared to assist in family problems and in preliminary plans for housing. The Federal Reserve Bank provides consultants to advise on property protection, auto and truck transportation, household goods, storage, etc. Representatives of Farm Security Administration advise on crop loans, handling of farm equipment and matters relating to the purchase or management of farm lands.

The exclusion order is the first step in actual evacuation procedure. It has required careful advance planning down to the smallest detail by the Army staff comprising the Wartime Civil Control Administration. The task of each agency, whether civil or military is carefully prescribed to fit the evacuation project involved. Careful synchronizing must be assured by this advance planning. Following this, the order for the evacuation of a given, desirable area is given and the team starts functioning.

Notices are posted advising the Japanese population of the limits of the area to be evacuated and advising them to report to a

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Civil Control Station and to be prepared to move by a given date.

Each civil control station functions about five days in a particular evacuation area. The team which makes up a given "station" then moves on to its next assignment—it spends about 4 days in advance reconnaissance. Such a team comprises civilian agency representatives including a medical examiner from the U. S. Public Health Service and a team captain from the U. S. Employment Service. They have been trained in advance for the job by the Wartime Civil Control Administration.

The next major phase of the evacuation procedure is the transportation of evacuees to the Assembly Centers.

On the date of moving the Army takes full charge of the movement and determines whether the evacuation is accomplished by train, bus or automobile caravan. Evacuees may sell their automobiles to the Government or have them stored temporarily.

Upon arrival at the center the evacuees are registered and assigned living quarters by the civilian personnel. Much of the detail work connected with resettlement in the Assembly Centers is carried on with the assistance of the Japanese themselves. A small Army contingent guards the camp but the Army has no other personnel involved in the operation of the Assembly Centers after the evacuees have been brought into the grounds.

The accommodations at each of the Assembly Centers include living quarters for family units, group dining halls, milk stations, shower baths, toilets and laundries. A post exchange is in operation at each center and a modest program of recreational activities to supplement work projects is being provided. Each center has its own hospital and staff.

The evacuees are supplied with food, housing, hospitalization, medical and dental care and necessary clothing. During their temporary residence in the Assembly Centers, Japanese are given nominal allowances for incidentals. Upon application the evacuees may secure coupon books which may be used for the purchase of merchandise at the center exchanges or stores. These books entitle a single adult to $2.50 merchandise per month, a couple to $4.00, an individual under 16 years $1.00. The maximum allowance for any family is $7.50.

Compensation is given to those evacuees who work in the Assembly Centers upon this basis: unskilled workers $8.00 a month; skilled workers $12.00; professional and technical workers $16.00 a month. No wage schedule for evacuees who are assigned to administrative and maintenance work has been determined. The wage schedules in Assembly Centers are based on a 44-hour week. The compensation to which I refer is provided only for work done in connection with the operation of the Assembly Centers.

The eighteen temporary Assembly Centers were selected for the accommodation of all Japanese in the Western States. These centers are located in four states as follows:

Arizona: Mayer.

California: Fresno, Marysville, Merced, Pinedale, Pomona, Sacramento, Salinas, Arcadia, Stockton, Tanforan, Tulare, Turlock, Tule Lake, Manzanar.

Oregon: Portland.

Washington: Puyallup.

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The largest is at the Santa Anita race track in Arcadia, with a capacity of 17,000. Next come Manzanar and Tule Lake with a capacity of 10,000 each and Puyallup and Tanforan, each with 8,000.

Fresno, Merced, Pinedale, Pomona, Sacramento, Stockton and Tulare have capacities of 5,000 each, Salinas and Turlock 4,000 each, Marysville and Portland 3,000 each, and the more or less isolated Mayer center, 250.

The complete job of preparing the Assembly Centers and actual removal of the Japanese to these centers will have been accomplished during a period of about two months. During this time housing for 112,000 people has been erected, supplied and equipped. The construction, equipping and supplying of the eighteen Assembly Centers and the whole evacuation procedure have been accomplished under the direction of only 35 Army officers.

We have referred to Assembly Centers as temporary locations. It is definitely understood that the Japanese who have been removed to the Assembly Centers will be transferred at a later date to the permanent Relocation Centers which are now being prepared.

The machinery for this final phase of the program was established under executive order on March 18th in the creation of the War Relocation Authority as a civilian agency under the direction of Mr. Milton Eisenhower. The War Relocation Authority works in cooperation with the War Department and is charged with the responsibility for locating and operating Relocation Centers in which the Japanese may live for the duration of the war. The Army will have no part in this phase of the program except for the actual transfer of evacuees from Assembly Centers to Relocation Centers and the maintenance of protective military guards outside the centers, although the Army does actually construct and equip the permanent Centers which War Relocation Authority is to operate.

Many people have asked about the extent to which the Japanese will be available to contribute to the nation's production of agricultural and other products.

This matter lies solely within the jurisdiction and responsibility of the War Relocation Authority, the separate agency charged with the permanent handling of the whole program.

Therefore, I can only answer the question in part directly and in part by quoting from a statement of policy just issued by War Relocation Authority.

War Relocation Authority has created a War Relocation Work Corps in which all Japanese over 16 years of age may voluntarily enlist. The following is quoted from War Relocation Authority's booklet on the subject:

"Enlistment in the work corps is entirely voluntary and all evacuees over sixteen years of age who are employable, both men and women, may apply. Among the obligations which the enlistee assumes are these:

1. He agrees to serve as a member of the corps until two weeks after the end of the war.
2. He swears loyalty to the United States and agrees to perform faithfully all tasks assigned to him by the Corps authority.

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3. He may be granted furloughs for work in agricultural, industrial or other private employment under the following conditions:

   a. Since the Army cannot provide protective services for groups or communities of less than 5,000, each State and local community where enlistees are to work must give assurance that they are in a position to maintain law and order.

   b. Transportation to the place of private employment and return must be arranged without cost to the Federal Government.

   c. Employers must, of course, pay prevailing wages to enlistees without displacing other labor and must provide suitable living accommodations.

   d. For the time enlistees are privately employed, they will pay the Government for expenses incurred in behalf of their dependents who may remain at Relocation Centers.

Upon application from War Relocation Authority, and statement that the conditions just quoted have been met to the satisfaction of War Relocation Authority, the Army will permit Japanese to leave Assembly Centers for private employment providing the location of such Japanese is to be outside the boundaries of Military Area No. 1. The Army will grant no permits for work within Military Area No. 1 under any circumstances. So far as the Army is concerned then, evacuees are now in Assembly Centers—virtually all of them. Soon all of them will be. While there, they are the Army's full responsibility. It accepts that. When the permanent centers are built it will transport evacuees to such centers under Army convoy. It will also provide military guard around such established centers. It accepts that responsibility, too. But it cannot accept the responsibility when evacuees are released to be employed privately because it does not have the men or the equipment to spare. On the other hand if state, local and private interests ask War Relocation Authority for evacuees labor, and agree to be responsible for the maintenance of law and order, knowing that the Army cannot provide supervision, the Army cannot and will not stand in the way of permitting such labor to be made available by War Relocation Authority.

Prospective employers seeking to arrange for the private employment of Japanese under the conditions I have outlined should consult Mr. E. R. Fryer, Regional Director of the War Relocation Authority, Whitcomb Hotel, San Francisco.

I have tried—and I hope—succeeded—in making clear the distinction between relocation which is being handled by War Relocation Authority with our cooperation, and evacuation which has been the Army's job, and which I have described in detail.

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A & J Herzig

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RG 389 PMGO. Box 1217 014.311 General P/W.

file PMG

February 4, 1942.

MEMORANDUM for The Provost Marshal General.

SUBJECT: Alien enemies on the West Coast (and other subversive persons).

1. The alien enemy problem on the West Coast, and elsewhere, is inseparable from the sabotage problem. Its solution, therefore, is bound up in the accomplishment of proper anti-sabotage measures. Every potential saboteur or fifth columnist is not an alien enemy. Many citizens who enjoy the privileges and immunities accorded by the Bill of Rights are potential saboteurs. It follows then, and there can be no disagreement in this, that the evacuation and internment of all alien enemies from, for example, the Pacific Coastal frontier or from selected areas within and along that frontier will not necessarily insure safety or remove the potential saboteur from within striking distance of vital national defense installations. On the other hand, neither is every alien enemy a potential saboteur. It follows then that in speaking of the "alien enemy problem on the Pacific Coast", that one is, in fact, speaking only of one phase of the problem of providing internal security against organized or sporadic sabotage. Although many of the comments in this memorandum will be applicable with equal force to the Eastern Theatre of Operations and to other sections of the Zone of the Interior (when the related problem arises with respect to those areas, as it surely will), this paper, primarily, is limited to the West Coast situation.

2. The primary concern along the West Coast, at the moment, is the so-called "Japanese problem". In referring to Japanese in this memorandum, unless otherwise indicated, both Japanese aliens and American citizens of Japanese extraction or parentage, will be included in the term. California, with approximately 93,500 Japanese and Washington with approximately 14,500 Japanese, have the greatest number of Japanese residents of any other states in the Union. In Washington State the largest concentration of Japanese happens to be very proximate tb the great Boeing Aircraft Plant. Other large concentrations are the Japanese vegetable peddlers along the Seattle and Tacoma waterfronts, and, in addition, large numbers of them are engaged in fishing and other related occupations along and between Grays Harbor and Willapa Bay and in the environs of Willapa Bay and

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at or near Mahcotta near the mouth of the Columbia River, all strategic critical areas. In California their disposition is well known and the largest concentrations of these elements happens to be closely proximate to the most vital areas in that State.

3. In my judgment, the evacuation of only <u>alien</u> Japanese from the Pacific Coast or from critical areas would accomplish little as a measure of safety. The average age of the alien Japanese is upwards of sixty years. A great majority of the males are old and ill. The Nisei or second generation (citizen) Japanese, has an average age of around thirty years. Most of these have been indoctrinated with the filial piety which characterizes that race. Their affections, if any, for the United States will not be stimulated by the wholesale removal of their parents from their several homes. On the contrary, it would be a natural and only human reaction if, as it is to be expected, the Nisei were incensed by such action and if even the loyal ones were persuaded to become disloyal . However, by far the vast majority of those who have studied the Oriental assert that a substantial majority of Nisei bear allegiance to Japan, are well controlled and disciplined by the enemy, and at the proper time will engage in organized sabotage, particularly, should a raid along the Pacific Coast be attempted by the Japanese. It is, therefore, my opinion that it would be almost as well to leave the alien Japanese undisturbed in his present habitat along the West Coast than to evacuate and intern only that category and leave the citizen Japanese untouched. In the opinion of the undersigned a solution to the problem can be found only in a means whereby all known subversive individuals and all persons with suspected subversive tendencies can be denied access to vital installations. Where any such persons reside around, in or near a zone dangerously close to any vital installation, they must be removed from such areas, else access is not denied.

4. What courses are open? The courses open are:

a. The designation of prohibited areas.

b. The designation of restricted areas.

c. The designation of military areas.

d. Mass evacuation of all aliens and citizens of Japanese extraction from the entire Pacific Coastal frontier.

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a. The designation of prohibited areas.

This approach is now in the course of accomplishment. The Commanding General, Western Defense Command, has already submitted recommendations for prohibited areas from which all alien enemies without exception will be excluded. Recommendations for such areas in Oregon, Washington, California and Arizona, have been submitted. Further recommendations of this nature are in the course of preparation regarding Air Corps installations such as air fields, airdromes, air bases in the three states and similar recommendations for the balance of the states in the Western Defense Command are also in the course of preparation. The Attorney General has indicated that he will accept General DeWitt's recommendations for prohibited areas along the three Western states and Arizona. It is the opinion of the undersigned that this is a half way measure for it does not reach the subversive individual and the potential saboteur who is a citizen, but merely reaches the alien enemy and proceeds upon the assumption that every potential saboteur is an alien enemy or, upon the assumption that every alien enemy is a saboteur or that you cannot distinquish between those who are and those who are not.

b. Designation of restricted areas.

The Commanding General, Western Defense Command, has also submitted recommendations for the designation of restricted areas, viz., those areas from which alien enemies will be excluded except on pass or permit and within which, subject to certa n regulations, the right to remain may be enjoyed. The Attorney General has indicated last night (February 5) that he will accept General DeWitt's recommendation for an extensive restricted area in California, consisting of the upper half, that is to say the Northern half of the West Half of California. A measure of this character is merely supplementary to the course outlined in a. above. Standing alone it offers no solution. As a measure supplementary to that described in A above, it offers only a partial solution because in the opinion of the undersigned, the alien enemy phase of the problem is only one aspect of the problem, a problem that should be regarded as a whole, inseparable.

c. The designation of military areas.

By the designation of military areas, the undersigned means the designation of islands surrounding all vital installations in the Western Defense Command (and subsequently elsewhere) from which all persons who do not have express permission to enter and remain, are excluded as a measure of military necessity. There is ample legal authority to sustain action of this character. While a tremendous administrative problem is involved, the mechanics are not unsolveable.

→ 70%

Alien enemies have no civil rights and they may be excluded from any area at any time, at the will of the Government. The exclusion of citizens, however, is another matter and it may not be accomplished by arbitrart classification short of martial law and suspension of the writ of habeas corpus. However, the exclusion of all citizens from certain military areas so designated due to military necessity by the military authorities excepting those who have permission to enter is justified and does not constitute an arbitrary discrimination by classes. As a practical matter, the undersigned believes that the accomplishment of such steps will involve an evacuation and internment problem of some considerable proportions. The mechanics of this measure will be discussed later in the next paragraph.

d. Mass evacuation.

The California Congressional Delegation supported by the Congressman from the other Pacific Coast states have gone on record as supporting mass evacuation. Some of them mean by this that they desire that all alien enemies be evacuated from the Pacific Coastal frontier and removed to the Zone of the Interior. Still others mean that this would include not only alien enemies but also all citizens of Japanese extraction. The third group desire the mass evacuation of all Japanese irrespective of alienage from the Coastal frontier and the evacuation of only those German and Italian aliens enemies deemed danger ous on an individual basis. It is the latter of the three mentioned programs that has the widest acceptance among the Congressional Delegations and other Pacific Coast Officials. It is undoubtedly the safest course to follow, that is to say as you cannot distinquish or penetrate the Oriental thinking and as you cannot tell which ones are loyal and which ones are not and it is, therefore, the easiest course (aside from the mechanical problem involved) to remove them all from the West Coast and place them in the Zone of Interior in uninhabited areas where they can do no harm under guard. However, such a program overlooks the serious dislocation of economic life and the loss of vital perishable produce which will ensure. As a matter of fact, in the opinion of the undersigned, mass evacuation is a course which, if followed, will largely relieve the necessity for eternal vigilance. However, no one has justified fully the sheer military nedessity for such action.

5. It is the recommendation of the undersigned that the course described in 3 c above be adopted as War Department policy and recommended to the President for accomplishment. In order to accomplish this course, the undersigned proposes the following steps:

a. An executive order placing control of alien enemies in the Secretary of War and enforcing him to requisition the services of any and all other Federal Agencies, authority to those agencies and direction to them to respond to such requisition. Power by Executive Order accorded the Secretary of War to designate restricted, prohibited and military areas. Step number 2, the designation of

military areas as such, upon recommendation of the military commander in the Western Defense Command. Step 3, the immediate evacuation from those areas to all persons to whom it is not proposed to issue permits to reenter or to remain, at least, a temporary internment of all alien enemies involved in such move with an open offer to the families of such alien enemies to accompany them in internment facilities to be provided by the Army. This step is to be followed by resettlement on a merit basis to be undertaken by the various Federal and State Social Security Agencies. This would involve release frominternment of all those persons who could show that they had a bona fide place to go outside of a military, prohibited or restricted area. It is estimated, based upon the recommendations for prohibited areas, which I assume would in a large measure be identical with those designated as military areas, that such action will involve approximately 30,000 people.

6. Final recommendation.

That the course of action proposed in 3 e above, as further explained in paragrpph 5 above, be adopted immediately; that the necessary action be taken to seek Presidential approval. Drafts of the necessary Executive Order, memorandum to the President for this purpose are in the course of preparation and will be submitted should this recommendation be approved.

Karl R. Bendetsen,
Lt. Colonel, J.A.G.D.,
Chief, Aliens Division.

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COMMISSION ON WARTIME RELOCATION

AND

INTERNMENT OF CIVILIANS

Tuesday, November 3, 1981

Russell Senate Office Building
Washington, D.C.

Hearing reconvened at 9:00 a.m.

Before:

JOAN Z. BERNSTEIN, Esq., CHAIR

CONGRESSMAN DANIEL E. LUNGREN, VICE CHAIR

HON. EDWARD W. BROOKE

FATHER ROBERT F. DRINAN

DR. ARTHUR S. FLEMMING

FATHER ISHMAEL V. GROMOFF

HON. WILLIAM M. MARUTANI

HON. HUGH B. MITCHELL

ANGUS MACBETH, Esq., SPECIAL COUNSEL

S/S

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Letter, Nov. 25, 1981, John J. McCloy to Senator Brooke

P R O C E E D I N G S

CHAIR BERNSTEIN: May we come to order, please.

Good morning. It appears we are all ready to begin the second day of this hearing. As you know, I will not make an opening statement this morning.

These two days of hearings have been almost focused entirely on the events at the time. Other portions of our hearings have focused very significantly on people who were in the camps who told their stories to the Commission. These two days of hearings have been almost entirely devoted, as I said, to hearing from people who have been good enough to come forward and tell us of their experiences in the events at the time in the government primarily.

Our first witness this morning is Mr. John J. McCloy, well known to most of us.

Mr. McCloy, I understand from Mr. Goldberg there is some question about what title you prefer. We'll give you anyone that you like.

MR. McCLOY: Well, I'm not entitled to a rank of ambassador. I was a military governor, and I was U.S. High Commissioner in Germany. I was telling him that maybe in some terms of prerogatives and dictatorial action I was higher than an ambassador. At one point I could dictate to my secretary and say her, take a law.

JUSTICE GOLDBERG: Madam Chair, under protocol our distinguished guest here, one of the most distinguished Americans here, certainly outranked ambassador. He was, as he

told me, proconsul, like General MacArthur was in Tokyo, so I think we are entitled to call him High Commissioner.

CHAIR BERNSTEIN: All right, Mr. High.

MC. McCLOY: I had a law colleague who used to admonish me saying, be careful or we'll go down in history as Low Commissioner.

JUSTICE GOLDBERG: Or Low-High Commissioner.

CHAIR BERNSTEIN: Please begin, Mr. McCloy.

STATEMENT OF JOHN J. McCLOY

MR. McCLOY: Let me introduce first Mr. Adrian Fisher.

JUSTICE GOLDBERG: He is an ambassador, Ambassador Fisher.

MR. McCLOY: He was on my staff during the war days, and he called me up the other night, or last night, and I told him what I was here for and asked him to come along because there may be some aspects of this thing that when we were together he could refresh my memory and I could call on his memory from time to time. He was not in on the early stages.

Now, the only thing I have in the way of a statement here is a letter I wrote to Mr. Bannai; he was then Executive Director of the Commission, and he was asking me would I be willing to testify so suppose I read that?

CHAIR BERNSTEIN: That would be fine.

Mr. Fisher, would you like to join Mr. McCloy at the table? We would be most pleased to have you.

MR. McCLOY: He says, "I thank you for your letter of June 22nd. Due to the shortness of notice following my return from abroad, it was difficult for me to alter my schedule so as to enable me to appear on the first dates set

for Commission testimony. I would, of course, be pleased to accept your invitation at a later date if you felt my appearance would be desirable. I regret this as I think the initial testimony, from the press accounts I have read, lacked proper perspective and ignored many important facts surrounding the Japanese relocation program."

I was simply reading from the newspapers, as I said from time to time, and I had not examined the record, but this was the impression I got.

"In the meantime, in accordance with your suggestion, I am sending you this letter both to notify you of my willingness to appear before the Commission and to give you some of my present thinking regarding the subject matter of the Commission's investigation.

"As your investigation probably already has disclosed, I had much to do with the early aspects of the relocation program while I was the Assistant Secretary of War following the Pearl Harbor attack."

Speaking of titles, Mr. Justice, I say "The Assistant Secretary of War", because there were a number of them, and I was The Assistant Secretary of War; I succeeded Judge Patterson as The Assistant Secretary.

Among other things it is important to keep in mind it was a relocation program and not an internment or punitive measure. In some respects it was one of the most challenging problems with which the War Department had to deal during my wartime service with the Government.

However, the events surrounding this action occurred so long ago -- some forty years in fact -- that I greatly fear any investigation of them now cannot reproduce the atmosphere, conditions and considerations which obtained at the time and which induced the action taken by the Government. Without this perspective I do not believe any objective investigation can be undertaken.

In the first place, the shock of the Japanese attack on Pearl Harbor and its devastating results can now be described, but I doubt they can really be felt as they were then. Our entire battle fleet had been obliterated at one blow, delivered in the form of this outrageous surprise attack. With it our defenses throughout the Pacific from Hawaii to our west coast suddenly became seriously impaired. This was, of course, the object of the attack. To put it mildly, our sense of security was stunned and, coming at a time when we were greatly preoccupied by the aggressions of another great power on the Atlantic side of the world, the implications were far reaching. In fact, Hitler's Germany declared war on this country practically simultaneously with the Japanese attack.

Over a substantial period of years when the West Coast and, indeed, the entire country had been agitated over the steady expansion of Japanese power in the Pacific. The nature of the so-called "Yellow Peril" had long been the subject of press comment on the west coast while clear evidence of active Japanese aggression prior to Pearl Harbor stirred more

immediate and substantially sharpened concern.

By chance, I was the only senior official in the War Department that Sunday morning -- I'm talking about civilians, as well as military; I was the senior officer there -- and when the news of the attack arrived, I immediately began doing what I could to implement plans for the security of the nation's capital which this startling event demanded. Shortly thereafter, urgent reports of the concern of the west coast for its safety began to come in. These reports were addressed to the White House, the Congress and other government agencies, including, of course, the War Department.

Governor Warren -- he wasn't governor I don't think at that time --

Justice Goldberg: Attorney General.

MR. McCLOY: Attorney General, but he got on the phone to the White House, wired and phoned his anxiety for the security of his state. The Commanding General of the Department, of which the west coast was a part, General DeWitt, shortly called attention to the threat presented by the concentrated Japanese-descended population on the west coast. As I recall it, General DeWitt subsequently notified the War Department that he could not accept responsibility for the security of the area he commanded unless steps were promptly taken to control this population with its threat of subversive action. I think it was possibly this accident of my being present at the War Department that morning dealing with local security problems which caused my subsequent

involvement in the security problems of the west coast.

This is not the time to recount all the pressures and considerations which set in motion the government's relocation program, even if it were possible to do so. I do recall that among other conditions which had to be taken into account was the need for the protection of the Japanese population from possible local disorders, demonstrations and reprisals. Reports came in on barn burnings and other disturbances in the agricultural areas where a large part of the Japanese population was concentrated. Pressures on the White House and the Department increased. The Department of Justice and the Attorney General, Mr. Francis Biddle, and members of his staff were called in by the White House to give thought and advice on the legal authority to take the security moves which were being urged, as well as to give guidance to those who might be called upon to implement the relocation process after the President's decision had been made. President Roosevent, Secretary Stimson and Attorney General Biddle were all very much involved in the problems the situation presented and all were, at the same time, keenly sensitive of their responsibilities for the security of the country in time of war.

These were the people who had the decision, [the] President of the United States, Commander in Chief with the Armed Forces, really had the authority, but the War Department, Mr. Stimson, had a tremendous influence in this connection. But, Biddle, Stimson and the President were the ones who were

charged with the security of the country and were faced with this dilemma.

I've heard it suggested, long after the event, that the President did not taken into account the full implications of his wartime order. From what I saw and experienced from the conferences which took place during the consideration of the action, I would strongly differ from those who now take that view. I do not recall that I had any direct contact with the President in regard to the matter, although I do know that the Secretary of War maintained close contact with the President and the White House. I believe from my meetings with the Secretary that the President was fully informed and gave the situation careful thought. Moreover, I believe that conscientious and determined attempts were made to alleviate the indisputable distress and hardship with the relocation imposed on many.

As promptly as possible, control over the program was removed from the jurisdiction of the Army, which initially was the only agency equipped to deal effectively with the logistics of the problem -- this was a very difficult problem. We had to move 100,000 people and to see that there was no disease or epidemic, and that they had their health taken care of, and the other amenities of life were taken care of, and it was a really complicated problem. There was nobody around us that could do it but the Army, and the Army, for its logistic abilities, was called on, naturally, to undertake it, as Mr. Bendetsen yesterday described -- I was here during

his testimony, though I was not here for the latter part -- and as soon as possible try to place this in the hands of civilian agencies. But as it turned out there as no way you could possibly undertake it initially at least except by the Army.

And the next thing, as I recall now, it was presided over by Mr. Milton Eisenhower. I remember how that came about; General Eisenhower suggested that we get Milton, his brother, of whom we had a very high opinion, and that's how it developed. And he came over and he took over that agency. He didn't do it very long. A little later, Dillon Myer was called in to replace him. But Dillon Myer was a man, God bless him. I forget what his background was but certainly he was a compassionate person. I don't know whether he's still alive or not.

MR. MACBETH: Yes he is, alive but quite ill, I understand.

MR. McCLOY: Well, he was highly sympathetic, but as I say, both men were of established liberal and sympathetic instincts. A sustained and enlightened effort was made to introduce schooling and other facilities into the camps and to expedite the redistribution of relocatees into areas around the country where jobs could be obtained and where life could be taken up with less threat of discrimination and violence than had been present on the west coast. Legislation was proposed to alleviate the losses engendered by the relocation and to conserve the property of those relocated at the time.

Indeed, as I recall, I initiated, or at least helped to initiate, the legislation, and appeared at least once or twice in support of it on the Hill until it took place in 1948. Substantial testimony was taken regarding the relocation program and some legislation was passed. It does not seem necessary to go over the same ground again now.

However, I heard yesterday for the first time that I remember, there was some $35 million appropriated. I don't know how much $35 million -- what is it worth today -- something well over $120 million. Is a dollar worth a quarter with respect to 1948? This wasn't small potatoes, this was a substantial sum of money. You must remember, we were all victims of the attack; it upset us all. I don't think we can ever be compensated for that -- certainly I'm talking about the people who died on Iwo Jima and Okinawa and other Pacific islands. We never had a nice calculation of what people were really entitled to under the war circumstances.

When I sat with the audience back here last night a good many of the audience came around -- they knew who I was -- they came around and said, "Mr. McCloy, we had nothing to do with the attack on Pearl Harbor, nor did those who died there. And in the last analysis when we tried to work out the compensation, I have no doubt that some of the ones compensated felt they were not adequately compensated. I personally did not consider that I was adequately compensated." I left my practice in New York, a somewhat prestigious law firm --

JUSTICE GOLDBERG: You object to "establishment?"

MR. McCLOY: At that time I might have been established in that I have a steady job, but I was very close to living in a poverty level then with my career uprooted. I came down to Washington on the request of the Secretary of War from a law practice in New York to work for $7,500 a year. I paid $75 a month rent for a Georgetown house, which some time after I left, I believe, was sold for some hundreds of thousands.

But at any rate, when they attacked Pearl Harbor a lot of things changed and one of the things that changed was all of our lives. But certainly there are a lot of those who you know were never adequately compensated for the sacrifices which that attack induced. I refer to those whose lives were lost at the attack and thereafter.

I keep thinking back -- it's hard. When I was sitting there in the War Department and news of the attack came in and the sudden realization that our whole battlefleet was sunk and the whole coast exposed. This was a stunning situation. It didn't mean we were all hysterical, but it did mean that we were made acutely sensitive to what had happened, and as to what the responsibilities of those in charge of our security were. I recall making sure that adequate guards were posted around the President at that time. We had an officer named Ulysses S. Grant, who was the grandson of the Civil War General Grant, who was in charge of the defense of the city; General Nelson Miles' son was there too. His

father was a great Civil War commander. I went over to see Colonel Frank Knox, the Secretary of the Navy accompanied by these officers. His aide, who was a southerner, cried out as we came in, "Look out, Mr. Secretary! Here comes the whole damn Union Army!" We worked the whole day making provision for the security of the country as word was coming from the Pacific Coast of the Naval disaster.

I hope the Commission will find, as I believe to be the case, that the whole relocation operation was as benignly conducted as wartime conditions permitted. I gained the impression, after making considerable effort to follow the destinies of those who had been relocated that on the whole the deconcentration of the Japanese population and its redistribution throughout the country resulted in their finding a healthier and more advantageous environment than they would have had on the west coast following the Pearl Harbor attack and the reports of the Japanese atrocities performed on our troops in the Philippines and the southwest Pacific began to come in.

This country, as well as our allies, were forced to confront a number of unpleasant wartime dilemmas and the relocation of the congested Japanese population in sensitive areas on the west coast was one of them. My belief and hope is the Commission will conclude, after an objective investigation, that under the circumstances prevailing at the time and with the exigencies of wartime security, the action of the President of the United States and the United States Government in regard

to our then Japanese population was reasonably undertaken and thoughtfully and humanely conducted. There has been, in my judgment, at times a spate of quite irresponsible comment to the effect that this wartime move was callous, shameful and induced by racial or punitive motives. It was nothing of the sort.

I know of the decisions that were made, and I think I know who made them, and I think I know generally what the motivation was of those individuals who made them was. One fact I would urge the Commission to refer to if any report is made in connection with its examination of the relocation program is the role which the 442nd Combat Team played in establishing once and for all the fundamental loyalty of our Japanese population. As a result of many appeals made to me by members of our Japanese-descended population after the attack on Pearl Harbor, I sought and obtained authority from the Army to permit these groups to form and serve in an integrated combat unit in our Armed Forces.

Mike Masaoka -- I don't know whether he's testified here or not -- he was very helpful because he brought in a large number of appeals on the part of the Japanese population to serve in the Army. As a result of this, I was responsible for the organization of this unit. I was an honorary member of that unit -- at least I was then. I guess I'm still one on record. It served in the Atlantic then and it was one of the most decorated units in the Army.

I read the testimony of General Mark Clark the other day. I had a big job to try to get the Army to permit the Japanese to form this unit. This was because the Army didn't like segregated units, and the one most opposed to it was the training organization of which General Clark was a part. They opposed it very vigorously. I went to General Marshall and I got the brigade started. As you know, the record of that unit, as you say, Mr. Justice, was one of the most decorated units in the army. The record of the 442nd Combat Team in the war enhanced Mark Clark's reputation as a military commander in the Italian campaign.

At any rate that had quite a lot to do, I think, with the abandonment of the old exclusion laws, and with the general acceptance of the fundamental loyalty of our Japanese descended population. You may complain about this, but the cooperation which the Japanese American population at that time gave us in connection with the relocation, the fact that many did cooperate, that we didn't have to shoot anybody, and that they were accepted -- these people went out to the various areas in the United States. I happen to come from Philadelphia, and I remember when people in Philadelphia -- at that time Philadelphia didn't know much about the Japanese. As a result of that a great many families did take on and help in the relocation of these people. Attitudes changed the general cooperation and I think the imagination which was applied in connection with the relocation, had much to do with the full acceptance of the general loyalty of the

Japanese population. Certainly, I do think recognition should be given to the fine service of the 442nd Combat Team of which the 100th Battalion of Hawaii was a part, as well as this cooperation to which I refer should be credited with their contribution to the existing good relations which prevail between the Japanese-descended population and the rest of the country.

It was this evidence of loyalty which did much to rid the country of the unjust discriminatory laws and prejudices to which, at one time, our Japanese population had been subjected.

Whether the then-existing government acting wisely in the light of present hindsight and perspectives long after the victory is, I suggest, quite beside the point. As one who was present and active in the War Department at the time, I believe the action was thoughtfully and carefully taken by authority of the President under what were then wartime conditions. The President was advised by civil and military statements of the highest stature, character and experience. Careful examination of the law was made by the Attorney General, and later litigation in our highest court support of the action taken.

I therefore believe in the interests of all concerned, the Commission would be well advised to conclude that President Roosevelt's wartime action in connection with the relocation of our Japanese-descended population at the outbreak of our war with Japan, was taken and carried out in accordance with the best interests of the country, considering the conditions, exigencies and considerations which then faced the nation.

I think my chief concern when I look at some of these forty years after the event second guesses, was the reputation and standing of the statesmen and men I served with. The idea that any suggestion of their policy was racist -- on behalf of a man like President Roosevelt or Henry Stimson -- and I could mention several others who were heavily involved at the beginning -- Bob Patterson, a former judge of the Federal Court of Appeals, a judge in New York, he was The Assistant Secretary of War in charge of production, and then became the Under Secretary. He was a judge several times mentioned for the Supreme Court of the United States, and he would have been a great one.

Charlie Fahy, a real constitutional lawyer, was a man with whom we consulted. Mr. Stimson talked to him --

JUSTICE GOLDBERG: He argued the case in the Supreme Court.

MR. McCLOY: I think he did. He was certainly on the brief there. Charlie Fahy was a fine constitutional lawyer, and he was concerned -- he met up with Biddle and Stimson several times and considered the legal aspects of this. Somebody said the other day -- I guess it was you, Mr. Macbeth -- some statement that according to General Guillion that I referred to the Constitution as a scrap of paper. Well, it's just utterly impossible for me to have said that. I was trained as a lawyer, and to some degree, as a constitutional lawyer. Maybe in the case of an emergency, in the case of an attack or the security of the nation, the President took steps

in accordance with the Constitution to provide security, maybe the Constitution at that point took on somewhat less significance interpreting other things. But I couldn't have used the words; it isn't part of my pattern. I was trained -- I'm not so distinguished, but I've been a lawyer for a long time and it is simply not a part of my pattern to refer to the Constitution as a scrap of paper. This is 40 years after an event and along comes some hearsay testimony and says that McCloy said something disrespectful of the Constitution. Just how much insight should you give to that?

And Mr. Biddle, the Attorney General -- of course, these men are dead now; I can't testify except from memory as to what they believed at the time. I do know their decisions -- and Mr. Stimson's -- but I know what Mr. Biddle's attitude was, and I know exactly what Mr. Roosevelt's was. I know exactly what Mr. Stimson's was. There's no apology due on their behalf. They were as compassionate and statesman-like as anyone, and I don't like to see any suggestion -- I think it would be an affront to their memory to suggest that they were hysterical or racist.

CHAIR BERNSTEIN: Mr. McCloy, can you move in closer to the microphone?

MR. McCLOY: I guess that finishes my statement. I did want to say something about the British because when I was here yesterday, Mr. Justice, you talked about about why didn't we quietly go about --

JUSTICE GOLDBERG: And I told you later -- I corrected that.

MR. McCLOY: I had already left.

JUSTICE GOLDBERG: I find in checking the record, for a short period of time they did intern German Americans, but there was such a revolution in Great Britain that they immediately set out on a program of releasing them, which they did, and judging the loyalty of all German British on an individual case. I guess you weren't here.

MR. McCLOY: No, sir.

JUSTICE GOLDBERG: Because I was wrong.

MR. McCLOY: I'm not talking about that particular thing; I know something about the British intelligence system. It was a highly sophisticated organization, and very well tested by wars; but they have a homogenetic society that we don't have. The British had an intelligence sense that permeated all strata of society. They had people represented from the City, as well as from the labor unions. They occupied a tight little island, and they knew something about everybody in the community, and I think we lose sight of that when we compare out intelligence and theirs. We didn't have time to sit down and sort out the loyal and the disloyal. We made an effort to do that in World War I with some disastrous results, if I may say so, but the British had a compact, very thoroughly permeating intelligence system, which I think is still very good; and they could employ methods more leisurely than we could.

We didn't have that mechanism in place on the West Coast at the time, and we did not know where the Japanese fleet had gone after Pearl Harbor. It might have attacked

the west coast after Pearl Harbor. We had lost track of it. But in the Battle of Midway, I happened to be in the War Department at that time with messages coming in on Midway, and we saw the accumulation of forces there. There were four battle squadrons attacking Midway, and how in the world, with our limited forces we could possibly succeed seemed to be utterly impossible. When word came in that by a very narrow squeak we had won, it was considered a miracle. Wellington is reported to have said after Waterloo, "It was a damn close run thing," and Midway was about as close as you could get. Practically all of the pilots were dead; they were killed in action -- about 80 percent of them killed in action. And we lost the Yorktown. It was about as close as you can think of. But we couldn't say the war was over with the victory at Midway; we won it. But the heavy losses at Iwo Jima, Tarawa and Okinawa were to come. We were very lucky to skin through the way we did because if we had lost at Midway, there was nothing from stopping them making an attack on the west coast and our Japanese descended population would have been in great danger.

But you could not put it in reverse. People talked yesterday about the loyalty of the Japanese citizens. We had a lot of very loyal Japanese American citizens. We also had a number of citizens and aliens who were not -- they went to places of confinement in the San Francisco area shortly after Pearl Harbor. They were not very pleasant places. Those detained were quite violent and they were shouting all sorts

of obscenities at their visitors and guards. What would have happened had the Japanese won at Midway; I don't know. We would probably have had just as many loyal people as we have now, but we didn't know it then, as a matter of fact.

When we formed the 442nd Combat Team, you must recall that we made up our minds that we shouldn't have the Japanese in that unit, fighting against their next of kin. So we kept them out of the Asiatic theatre. They served where there would be no confrontation with their compatriots, or whatever they should be called, and we didn't expose the 442nd Combat Team to the temptations they might have been subject to if they were fighting against their own kin. They were sent over to the European theatre, and we did take into account their possible sensitivity if they were faced with other Japanese.

I think that's about all I want to say, and at the moment, I will attempt to answer any questions to the extent I am capable of doing, so I appreciate your invitation to appear.

CHAIR BERNSTEIN: Thank you, Mr. McCloy. We appreciate your candor and we would like to, if we may, ask a few questions. I think I will follow the same rotation I established yesterday and start at this end of the table.

Father Gromoff:

FATHER GROMOFF: No comments at the moment.

CHAIR BERNSTEIN: Judge Marutani.

JUDGE MARUTANI: Mr. McCloy, I want to assure you that notwithstanding some contrary impressions that might

otherwise have been conveyed, that the function of this Commission certainly is not to lay blame and condemn people. It is, however, the function of this Commission to ferret out the truth, the naked truth; and it is in that spirit, and I'm sure you will join the Commission in that search.

MR. McCLOY: Truth on both sides.

JUDGE MARUTANI: Correct.

One of the things that since you were the Assistant Secretary of War, do you have any knowledge in reference to the classification or declassification of the Nisei military status? You will recall at one point they were reclassified to 4-C.

MR. McCLOY: I have a vague recollection of all those years. I do know there was some classification. I remember the confusion of mind we had in regard to the various classifications of Japanese descent. There were Kibei, Issei, Nisei --

JUDGE MARUTANI: Let's deal with the Nisei who are Japanese Americans.

MR. McCLOY: Well, let me try to -- if I can recollect enough to answer your question. I recall our discussions in terms of just how should we deal with the Nisei, how should we deal with the Kibei, and how should we deal with the Issei, or whatever they were. And I remember Mr. Stimson making a statement after a point had been made with a good deal of emphasis on their citizenship of the Nisei, born here and having citizenship here. I remember him

saying at one point the confusion that seems to exist amongst the Japanese American population there was not much basis for distinction between the Nisei, the Kibei or other classes. He was concerned about, and was insistent upon fair treatment for all these groups, no matter what their derivation was. He said I don't care whether they're aliens or citizens, they've got to be treated as humanely and sympathetically as possible, and I want the most considerate treatment afforded to all of them.

Part of that was due, I think, to the fact that he was very much concerned, as I think Colonel Bendetsen indicated yesterday, about the fact that if there was talk of excesses against the Japanese population here, however they were classified, that this might result in reprisals against those Americans who were in the hands of the Japanese at that time.

But at any rate, he didn't want any blot on the discussions of the United States' treatment of the Japanese population, whether it was Nisei, whether it was Kibei, whether it was citizens or non-citizens or aliens.

I don't know if I answered your question.

JUDGE MARUTANI: Well, Mr. McCloy, the Commission has heard over 700 witnesses in various hearings. During the course of those hearings, we have heard from veterans who at one point had been classified from 1-A to a 4-C classification, which is undesirable. That was done apparently unilaterally. These veterans very much resented that particular arbitrary reclassification from 1-A, which is pure 100 percent American,

to 4-C, which is undesirable, with no basis that they become discerned.

I'm wondering, sir, what prompted the government to engage in that action, more specifically the War Department?

MR. McCLOY: I wish I had an acute enough memory to tell you, but I do know there was always this effort to try to distinguish between one group and another group, whether they were loyal or whether they were not loyal, and we sort of held up our hands in confusion at the end.

The feeling was that we had to deal with the whole picture in order to bring about the security objectives which we were seeking. I can't tell you about the niceties that arose in connection with the attempted classification or reclassification of those individuals.

I have sort of a concept of the entire group, the exigencies that that entire group presented in rather sensitive military areas in which they were concentrated; and I came to the conclusion finally that it had to be dealt with as a group, family units, and that we couldn't make the nice distinction that perhaps you could in peacetime.

JUDGE MARUTANI: Well, sir, what of the Nisei, the Japanese Americans who were in the Army or in our Armed Forces as of December 7th? Are you aware that a number of them were unilaterally rejected from the Armed Forces?

MR. McCLOY: If you tell me they were, I accept it.

JUDGE MARUTANI: We have had testimony to that effect as well.

MR. McCLOY: I would be shocked at that, but maybe there were some there that they were suspicious of, I don't know. I just don't happen to recall that we did eject anybody from the Army.

JUDGE MARUTANI: Well, do you recall that following December 7th that the Selective Service system ceased taking in Japanese Americans into the Armed Forces?

MR. McCLOY: Yes, I remember that. I remember it made me feel they couldn't be relied upon. It was during that period, the communications from Japanese Americans -- or Japanese descended Americans, asking to prove their loyalty I recall getting hold of Mike Masaoka at that time and saying how about this, what's your general opinion. And that's when I tackled the Army on the organization of the combat team; I encountered opposition from everybody except those on my immediate staff and General Marshall.

I went to General Marshall, who then orderd the unit formed and trained. It became, as I say, one of the real factors in the general acceptance of the loyalty of our Japanese population.

JUDGE MARUTANI: Mr. McCloy, referring over to your written statement from which you have read this morning, I direct your attention to page 4 of that statement, in which the first full paragraph you say: "I hope the Commission will find, as I believe to be the case, that the whole operation was benignly conducted..."

MR. McCLOY: "...as benignly conducted..."

JUDGE MARTUANI: All right, "...as benignly conducted as wartime conditions permitted." I suppose that may be true from your perspective, and I in no way mean that in any single fashion. At the same time, sir, I hope that you in turn will recognize the fact that the Commission has had the benefit of hearing over 700 witnesses that you have not had the benefit of hearing.

MR. McCLOY: No, I have not had the benefit of hearing that testimony.

JUDGE MARUTANI: Now, in the second paragraph on that same page, sir, the closing sentence reads as follows: "There has been, in my judgment, at times a spate of quite irresponsible comment to the effect that this wartime move was callous, shameful and induced by racial or punitive motives. It was nothing of the sort."

I would trust also, sir, that you will give the benefit to this Commission which has heard 700 witnesses, over 700 witnesses', first-hand accounts as to what their individual experiences were.

MR. McCLOY: I was not at the hearings. All I know is the perspective from which I sat.

JUDGE MARUTANI: You disavow that there were any racial elements in the action taken to evacuate and remove the Japanese Americans and their parents from the west coast? I suggest to you, sir, that a number of the Supreme Court Justices, Justice Murphy, Justice Jackson, who disagree, that they flatly labeled the action as being racist.

Let me quote from Justice Jackson, "An otherwise innocent attack became the crime merely because this prisoner..." and that was referring to Korematsu, "...is the son of parents to whom he had no choice and belongs to a race from which there is no way to resign."

And so I suggest to you that a number of eminent justices on the Supreme Court would inject a racial element as to the action of the Government.

JUSTICE GOLDBERG: Judge, you overlooked Justice Roberts, too.

JUDGE MARUTANI: Yes, I said "others" as well.

MR. McCLOY: Well, I can only testify in regard to my knowledge of the Government's decisions and the motivation of the people who made the decisions who were responsible for the security of the country. I'm talking about the President of the United States. I don't know where these judges got that idea. I didn't see the slightest suggestion -- Mr. Stimson was a man of, as you know, great integrity; he's the man in spite of all his experience in the Far East; he's the man that saved Kyoto from bombing. He was very -- he was compassionate, and I know he couldn't possibly decide this thing on racial grounds. He was also sensitive to his position as Secretary of War, and the responsibility for securing the country after this attack. And I have never heard him suggesting anything, nor did I hear Mr. Roosevelt, who is the man who signed the order -- I know Mr. Roosevelt was a former naval person and he carried probably some of the prejudices

that the Navy generally had to the Japanese aggressions that had been taking place for so long a time in the Western Pacific, but I never heard him suggest that he was racially motivated. He talked only about military necessity, and he did have a very strong feeling about that.

I think that Mr. Stimson had the military necessity and some other considerations in mind, but I never heard any of these men indicate any element of racism in their decisions. There was, during that period, referred to in the early days, the Yellow Peril books, but that wasn't an element in motivating Mr. Stimson's or the President's decision.

JUDGE MARUTANI: Well, do you recognize, Mr. McCloy, this is an assessment made by people who were not involved and who supposedly made an objective -- and therefore made an objective assessment of what actually transpired?

MR. McCLOY: They were not as close to it as I was.

JUDGE MARUTANI: Nevertheless they were not involved and were therefore presumably in a better --

MR. McCLOY: I don't know where they could have found that for a basis for that -- at least in my experience -- but I do know what the atmosphere was when those decisions were made by the people who were responsible for making them.

JUDGE MARUTANI: In your closing paragraph of your statement, and that appears on page 5, Mr. McCloy, you state: "I believe, therefore, in the interests of all concerned, the Commission would be well advised to conclude that President Roosevelt's wartime action in connection with the relocation of

our Japanese-descended population at the outbreak of our war was taken and carried out in accordance with the best interests of the country considering the conditions, exigencies and considerations which then faced the nation."

I'm wondering, sir, whether there is not another dimension to that -- that is -- another perspective that it is at least a two-dimensional situation, and that is to say, number one, that the dimension or perspective of those in power and who therefore were in a position to perform or direct certain things. And the other perspective is that of those who were affected thereby, 115,000 and 120,000 individuals involved.

I'm wondering whether or not the best interest of the country was served by uprooting 120,000 people and destroying their lifetime work and so on and so forth. I won't go through the entire litany, but should not that also be considered?

MR. McCLOY: As far as we could possibly consider it as of that time the decisions were made, I think these men took into account the stress involved in this uprooting. But there was a time element -- you can't reproduce it in this marble hall 40 years after the event of what the condition was at that time. I think when you consider all of the stress that this country suffered as a result of that attack, that the Japanese American population wasn't so adversely affected, and so adversely affected as to amount to a callous or shameful act on the part of this nation. It was something which we all

shared, everybody shared in the losses that were induced by the stress produced by that attack, and it was never possible in war time to see that sacrifices are ever evenly distributed.

JUDGE MARUTANI: Let's address ourselves to the sharing for a moment and try to put that into perspective. What other Americans, Mr. McCloy, shared in the war by having their mothers, fathers, grandfathers, younger brothers and sisters incarcerated?

MR. McCLOY: Can I try to compare --

JUDGE MARUTANI: No, I asked you, sir, we all shared, and I want to ask you who else shared in that? What other Americans? What other Americans went into the war and gave their sons and daughters and came out of the war with the greatest record in the war?

MR. McCLOY: Lots of Americans lost their lives with all sorts of distress; some of them were tortured.

JUDGE MARUTANI: Do you happen to know that the Nisei had the greatest casualties in the entire war?

MR. McCLOY: I know all about the 442nd, I formed it. We all shared, and they did their part.

JUDGE MARUTANI: Would you agree, sir, that the Japanese Americans and their parents shared in the war in matters that no other Americans shared?

MR. McCLOY: I don't say as no others, no; I just say they shared.

JUDGE MARUTANI: Tell me who those others were who gave up --

MR. McCLOY: I can't compare the distress of a family who lost four men on Iwo Jima with a man who was segregated or evacuated or relocated and with the difficulties that he had.

I visited those camps, and I saw a lot of them. You talk as if Tule was the only one. I saw what was done.

JUDGE MARUTANI: Sir, that is not the point.

MR. McCLOY: It is the point.

JUDGE MARUTANI: The point is that you said everyone shared and presumably that the Japanese Americans shared on the same basis as all other Americans in that time, and I'm trying to determine whether that is so.

MR. McCLOY: I don't think the Japanese Americans were unduly subjected to the distress during the war.

JUDGE MARUTANI: What other Americans, Mr. McCloy, fought for this country while their parents, brothers and sisters were incarcerated?

MR. McCLOY: You use the word "incarcerated."

JUDGE MARUTANI: Well, all right, behind barbed wire fences.

MR. McCLOY: Sir, I visited those camps, and they were not distressed; however, I was quite aware we were facing a heavy dilemma, and people were concerned about the necessity that was impelled by this surprise attack to do things that we would not have thought of doing but for the effect of Pearl Harbor. It was wartime, and I say we can't evenly distribute all of the distress produced by that fierce act

and say we must now, 40 years after the attack, readdress all of the risks, dangers and sacrifices.

JUDGE MARUTANI: No, we started with the basic premise that we all share equally --

MR. McCLOY: I didn't say we all shared equally, no I said it is impossible to make equal distribution in time of war or ever; you can't do it.

I say that I don't think the Japanese population was unduly subjected, considering all the exigencies to which, to amount that they did share in the way of retribution for the attack that was made on Pearl Harbor.

JUDGE MARUTANI: Can you read that back, please?

(record was read back)

JUDGE MARUTANI: Do I understand your statement that because of what the Japanese did at Pearl Harbor, what happened to Japanese Americans here was fair or there was no retribution?

MR. McCLOY: I don't think I like the word retribution.

JUDGE MARUTANI: I want to be fair to you, sir. Mr. McCloy, truly, I'm trying to determine really what happened, what went through peoples' minds, and what motivated them to do what they did do. Now, if you would like to modify that, please feel free to do so.

MR. McCLOY: I don't like the word retribution.

JUDGE MARUTANI: Do you want to rephrase that?

MR. McCLOY: I say the consequences of the retribution -- I'm not asking everybody in the United States, particularly

the Japanese population to give retribution to what the Japanese did on that December day. I'm saying, because of the destruction in all our lives, you can't compare the distress, let's say, a GI family suffered in losing people in Okinawa or Iwo Jima, but all of us were disrupted by the effect of that action, and we all suffered to some degree from it, and it's not possible for us now, 40 years after the event to attempt to redistribute the damages that resulted from it.

We did attempt to do something in 1948, and I was very surprised to hear how large the fund was considering today's inflation. I instituted that legislation to meet any losses, at least I think I instituted it; I certainly supported it very strongly, and I testified in favor of it.

JUDGE MARUTANI: Mr. McCloy, this is not a statement you yourself made. It is a statement as you indicated earlier that General Gullion says you made, and you have read that. Mr. Macbeth provided it to you, and Gullion says this: General Gullion: "I think McCloy did say this to Biddle, you are putting the Wall Street lawyer in a hell of a box, but if it is a question of the safety of the country and the Constitution, why the Constitution is just a scrap of paper to me."

MR. McCLOY: I say that's hearsay, sir. I don't remember saying it; I don't believe I could have said it.

JUDGE MARUTANI: I see.

MR. McCLOY: General Gullion was the Provost

Marshal General -- I was a lawyer trained and sworn to support the Constitution. I couldn't any more say that than Justice Goldberg.

JUDGE MARUTANI: There is described to you a statement to which is in the magazine call The Inquiry, of April of this year, an article written by Richard Drinnon, and I don't know whether it's true or not. It reads as follows: "The confinement of these oriental shadows in desert camps presented a great opportunity at long last to fathom the unscrutability." We would be missing a very big -- this is ascribed to you now.

MR. McCLOY: Who ascribes it to me?

JUDGE MARUTANI: This is the letter that you allegedly wrote, according to the article, to Alexander Meiklejohn in September of 1942. Do you know Mr. Meiklejohn?

MR. McCLOY: I know a Meiklejohn who was once President of Amherst College, and I was chairman of the board later -- not chairman, when he was my president and I was there.

JUDGE MARUTANI: I see, sir.

Well, according to this, I don't know whether it is true or not, you are quoted as saying, "We would be missing a very big opportunity if we failed to study the Japanese in these camps at some length before they are dispersed," and that's the end of the quote. And then there are some other quotes in there.

"Having them [quote] 'gathered' [quote] there are afforded means of [quote] 'sampling their opinions and studying

why their customs and habits in a way we have never before had possible' [quote], we could find out what they are thinking about, and we might very well influence their thinking in the right direction before they are again distributed into the community."

Is there any germ of --

MR. McCLOY: I don't recall. I knew Meiklejohn very well; he was a great teacher, a very liberal minded man, and I thought an excellent college president.

He wrote to me from time to time and I exchanged correspondence with him. I gather from trying to hear what he said that I was suggesting --

JUDTICE GOLDBERG: Why was he fired from Amherst?

MR. McCLOY: Why was he fired from Amherst?

JUSTICE GOLDBERG: Yes.

MR. McCLOY: That was after my day. I fought very strongly for him.

JUSTICE GOLDBERG: My son's a graduate of that great institution.

MR. McCLOY: I have great admiration for Meiklejohn. I thought he was -- I would suggest we were trying to make sort of an experiment to find out from them what the Japanese population was thinking about and having a more penetrating benefit of their psychology than we had. I don't remember anything about that, and I can't imagine now that the camps were particularly an ideal place for the study of the Japanese nature and character. I think that they were -- we were always

worried about the concentration of the Japanese population in particular areas and about the west coast. They were not part of the community; they were segregated due, I think, to the earlier prejudices, and the economic problems that existed, and maybe the thought might have crossed my mind that this might be an opportunity to study their mentality to improve our relation with them. But I don't have the faintest recollection of even writing that letter, but I won't say that I didn't.

JUDGE MARUTANI: Since you are here, I would like to ask one final question and close my questioning.

Also in the same article there is this statement, not ascribed to you or anybody, and I'd like to know if perhaps you could shed any light, because President Roosevelt, as we all know, was one of the key people in this entire episode and it says in this article: "Roosevelt himself believed that the less developed skulls of the Japanese might account for their evil ways and put. . .", that is Roosevelt did, ". . .and put a renowned scientist at the Smithsonian to work in proving this supposition." That sounds so fantastic to me that I --

MR. McCLOY: It's not recognizable to me. I should say it was not a pattern of Mr. Roosevelt's thinking as I experienced it.

JUDGE MARUTANI: Mr. McCloy, I have some other questions, but I want to thank you. I want you to know I consider you to be a very forthright and outstanding individual.

MR. McCLOY: Thank you very much.

CHAIR BERNSTEIN: Dr. Flemming?

DR. FLEMMING: Mr. McCloy, you probably know the Commission has a copy of the memorandum that you prepared for the Secretary of War in March of 1944, and it dealt with the subject of the release, the possibility of release of the Japanese Americans from the camps; and in the background memorandum that you prepared for the Secretary of War, you said that "while it was believed that many of the Japanese were loyal, it was known that some were not. No ready means existed for separating the loyal from the disloyal."

Well, as you and I know, at that time in our history, the government was investing a great deal of money in attempting to separate the loyal from the disloyal. The procedures that were instituted left something to be desired as we all know now, as we look back on that particular period.

Some of the individuals who were the subject of those investigations were certainly not accorded anything that we would identify as due process.

But nevertheless the procedure was being handled on a person-by-person basis. This was true of persons of German descent and persons of Italian descent.

I'm wondering if in the discussion that took place prior to recommending the executive order to President Roosevelt, and prior to his signing the executive order, whether there was a reasonably thorough explanation of the

possibility of dealing with the situation that the Government felt confronted with on the west coast on a case-by-case basis, individual-by-individual. In other words, whether consideration was given to dealing with the Japanese Americans in the same way that all other groups in our society were being dealt with during the war period?

MR. McCLOY: You're talking about a memorandum in 1944?

DR. FLEMMING: Yes.

MR. McCLOY: Then you're asking me in respect to what the situation was after Pearl Harbor.

DR. FLEMMING: Yes. In your memorandum to the Secretary of War, you just made the comment you were going back to the origin of the Executive order, you said, "while it was believed that many of the Japanese were loyal, it was known that some were not. No ready means existed for separating the loyal from the disloyal."

Now it was that particular sentence that led me to ask whether or not the staff in the War Department, in the Department of Justice and other departments of government explored the possibility of following in the same procedures in dealing with Japanese Americans that were followed in dealing with all other persons in that particular time, and if that was explored, why that approach as contrasted with the mass evacuation was rejected as it applied to the Japanese Americans, but it was not rejected as it applied to those of German descent or Italian descent?

MR. McCLOY: Well, I remember that Mr. Hoover wanted

at one time to take over this whole business in determining loyalty one way or the other, but I have a recollection -- I just said this morning, there was a time element in regard to this. In this attack, we had thought there were some exigencies, we were presented with, peculiar to the west coast; the Commanding General on the west coast said he could not be responsible for the security on the west coast unless we did something to take care of these concentrated areas.

To that extent I think we felt it would take too long a period to work this all out, and Mr. Hoover had not completed his own job at that time, and I think that that was one of the thoughts that induced us to feel that this situation produced exigencies that required a group dealing with the problem, particularly because of the concentration close to these areas that perhaps didn't obtain in the east coast or elsewhere throughout the country. This was an exigency, an emergency measure we felt. I was more impressed -- I won't say more impressed, but I was more impressed I think than Mr. Roosevelt was, if I might mention this, for the necessity of protecting against local disorders. We didn't want to shoot anybody, we didn't want to have anybody subjected to violence, and we wanted to do something fairly promptly to take care of what we thought was the exigent situation produced by the devastating attack on Pearl Harbor. I suppose that is the best answer to your question. I think if we didn't have them trained at that time a sufficiently expeditious sytems for sorting the sheep from the goats, as we might have had

later on, or as Justice Goldberg said the British seem to have had in their type of area.

DR. FLEMMING: Do I understand from your comments that Mr. Hoover did recommend handling the situation on a case by case basis?

MR. McCLOY: He wanted to take care of the whole thing.

DR. FLEMMING: On a case by case basis?

MR. McCLOY: Yes, he wanted it all transferred to his department.

DR. FLEMMING: Did he express his views by memorandum or in discussion --

MR. McCLOY: I don't remember. I didn't even know about it at the time. I know about it now, but whether I knew it then, I can't recall. But I do know that Mr. J. Edgar Hoover felt that he could take care of the whole job and wanted to take care of the whole job, but it was taking him a long time to do what he was already doing.

DR. FLEMMING: You don't recall whether or not in the files which you were looking at or was being considered in connection with this, was this point of view of Mr. Hoover and then some staff work done by the staff people in the War Department on the other side of the issue so to speak?

MR. McCLOY: Oh, I think that Mr. Hoover's thoughts were taken into account, but I think they were discarded in this respect.

DR. FLEMMING: The only reason I'm pressing this is that I'm very much interested in how our process of the government operates when they're under strain and under pressure. You have referred, for example, to Milton Eisenhower; and Milton Eisenhower has filed with us a statement where he feels that the process of the government didn't work very well when we were subjected to this particular strain, the fact of the matter is he comes down to the end and says: "I brooded about this whole episode on and off for the past three decades, because it is illustrative of how an entire society can somehow plunge on course."

Now he doesn't place blame on indviduals in society, he is trying to get a feel of how the whole system operated, and one of the things he emphasizes is that he feels that some of those who were in the -- who were a part of the decision-making process did not have available the kind of staff work that really should have been available to them, and one of the things that certainly stands out in my mind as a result of the testimony that we have taken, is the fact that as we went through this period, the Japanese Americans were the only group that were subjected to mass evacuation, as far as determing whether we were dealing with loyal or disloyal persons was concerned in all other instances, we dealt with it on a case by case basis.

Again, I want to say I observed that operation, we can't be proud of all of the ways in which many cases were handled, but I notice we recognize that, and I think we can

all identify cases where we were all dissatisfied with the process -- with the outcome of the process. But, nevertheless, it was on a case by case basis on a person by person basis.

But here we are a whole group of persons who were denied the opportunity of being considered as individuals on their merits; and frankly the testimony that has made tremendous impact on me has the impact of that process made on them in their judgment and on certain areas I feel they are correct, it constituted a violation of their dignity and worth as individuals. They were not considered as individuals on their merits, but they were just made a part of the group and moved into these camps without regard to what these individuals --

MR. McCLOY: Don't say without regard -- that problem was presented at this time. There was a time element, there was a certain aspect to the Japanese situation that I don't think existed in respect to the East Coast with respect to the Germans or Italians, and there was not this concentration as on the west coast. Moreover, we had not been attacked on the east coast as we had been on the west coast. If we had been, we might have done the same thing there, and I'm suggesting, Ms. Chairperson, that one of your missions in this thing is to determine what to do in the future; and I was thinking about that as you spoke about it the other day, that seems to be part of your mission given to you by Congress. And I would say be very careful about it, because I don't think you can tell what the situation is going to be ten years or fifteen years hence. I'm worried that -- this

sounds rather alarmist, and I don't mean to be an alarmist, but within 90 miles right now off our shore, there are 100,000 people trained, thoroughly equipped, well trained in modern warfare, that are being set up to serve as proxies to the Soviet Union in various parts of the world.

Suppose there was a raid 10 or 20 years hence in Florida and the Cuban population was centered down on the tip of Florida. Wouldn't you think seriously about moving those people out if there was a raid there? You can't tell, and I would not bind the future too closely because the same exigencies that we had with respect to loyalty in World War I didn't apply appropriately to the situation that existed on the west coast just after the attack on Pearl Harbor. Just be cautious as to how you try to have a dead hand deal with our future security.

I'm not so sure it is wise from the point of view of the security of the country to sit down here now -- we may have some generalities, but I would be very cautious about being too specific as to what you recommend you're going to 25 years hence, or 10 years hence.

I really don't know what the answer is. I used the word "sui generis" in respect to the west coast Japanese situation and I feel it was just that.

DR. FLEMMING: Well, the main point I was making was that certainly the Japanese Americans were not treated -- they were treated as a group, they were not dealt with on their merits as individuals.

MR. McCLOY: No, that is true, but I think there are reasons for that. Indeed, when an attempted to deal with the problem on an individual basis, the Relocation Agency at Tule Lake got into trouble and we had [to bring] back Bendetsen and the Army.

DR. FLEMMING: The individual member -- and this constituted a sharp difference from the procedure that was followed in order to separate say the loyal from the disloyal in all other instances.

Thank you very much.

CHAIR BERNSTEIN: Mr. Macbeth?

MR. MACBETH: I wanted to start on the record by acknowledging that Mr. McCloy has given the Commission a copy of the entries from his diary from 1942 that were relevant to the Commission's inquiry, and on the front page I want to make this clear for the record. He states, "It sets forth the responses, entries, including typographical errors and other inaccuracies found in the original," and it's my understanding, sir, that that means in fact the words as they were in the diary, relevant to the Commission's inquiry have been reproduced here?

MR. McCLOY: I think that is an accurate reproduction.

MR. MACBETH: I want to be clear what you meant by the word "substance" so that there is no suggestion at a later date you will change that.

MR. McCLOY: No, sir.

By the way, that isn't my official diary; that was a

very personal diary that was kept by a niece of mine who happened to be in my office. She just jotted down these things, and I found I had them, and I had produced the whole diary.

MR. MACBETH: The Commission is not asking any more from the diary than what was relevant to its inquiry.

MR. McCLOY: It's not a government document.

MR. MACBETH: I wanted to go over the elements that went into the decision on the evacuation on the Executive Order in 1942, and cover some of the ground that was discussed yesterday.

First, is it your memory that there were no known cases of actual sabotage from Japanese aliens or Japanese American citizens on the west coast prior to the signing of the Executive Order?

MR. McCLOY: I can't say -- I don't know whether there were or whether there weren't. There were rumors that there was violence and some espionage, that everybody was reporting in that there were signals from the Coast and they were close enough to watch the convoys. Whether it was espionage or not, I can't say. But this wasn't such a motivating factor with us, the probability was there, and I think the soldiers who were military minded always had -- they weren't saying that they wanted -- they wanted to try to eliminate as far as possible all potential sabotage or espionage after the attack, and I don't know that they had any records at that time; I didn't know of any record of any convictions; there were suspicions and rumors but that's as far as I can go.

MR. MACBETH: Would it be fair then to say that the decision was made not on the basis of actual events of sabotage or espionage known to the War Department, but on the fear of possible future actions, is that right?

MR. McCLOY: Yes. Except, of course, the Pearl Harbor attack itself.

MR. MACBETH: Now, what consideration was made in those circumstances of the events in Hawaii at the time of Pearl Harbor? I think it's probably fair to say that as one looks at the Roberts Report which came out in -- shortly before the Executive Order was signed, that makes no reference to any sabotage by the Japanese aliens or Japanese citizens in Hawaii; there is some suggestion that espionage through Japanese consuls, and I believe it is also fair to say that there was no fifth column activity.

What kind of weight was given by the War Department to the actual events in Hawaii at that time?

MR. McCLOY: Well, Hawaii certainly was discussed because it was a very sensitive island. That's where the attack took place. I don't know when martial law was declared; it was declared very early, and since there was martial law on that island, they could cope with everything rather quickly. They could handle the logistics of moving any quantity of Japanese -- it was an obstacle there to subversive activity -- it was thought by blanketing down martial law as we could in that island, something we couldn't practically do on the mainland, that that would take care of any problems of subversion, espionage or other acts of violence.

MR. MACBETH: But again to be fair to the history of what happened in Hawaii at the time of Pearl Habor, there was in fact no sabotage or fifth column activity --

MR. McCLOY: Well, there was definitely signaling and spying going on there. It was assumed there were still spies left in Hawaii, because of events there.

MR. MACBETH: And some of the spying for the Japanese had not been by Japanese Americans or Japanese aliens, but in fact by Caucasians?

MR. McCLOY: I think so, but I'm not familiar with that, it didn't amount to a consideration with us because early on they decided the best way to handle such matters in Hawaii was by martial law.

MR. MACBETH: I would like to ask your recollections about the political press demands from the west coast for this evacuation measure. How significant an element did that become in the considerations of the government in general?

MR. McCLOY: I think the most significant pressures from the west coast came through the Congress. Congress was constantly calling up the President; the President was checking it over with us. I recall some call from the White House and from the west coast, but I think most of it was -- most of the pressure came from Congress.

MR. MACBETH: And you are referring at this point to the time before the Executive Order was signed?

MR. McCLOY: Yes.

MR. MACBETH: And what kind of message and instruction did the War Department receive from the President in response to those calls?

MR. McCLOY: Well, all I can recall was that he was keeping the pressure on after Pearl Harbor. He felt something had to be done; he was very much impressed by the reports coming in from DeWitt, and he wanted us to consider -- he was in closer contact with the Department of Justice than I think he was with -- well, I won't say that, because he was in very close contact with Mr. Stimson.

But he did use the Office of the Attorney General a great deal, and I think in coming to a conclusion of the legal aspects under which they could operate -- he was in touch with the Under Secretary of War, Mr. Patterson, the Judge Patterson I referred to -- he was in charge of production. He was worrying about sabotage in the plants on the Coast. He was trying to get at this problem as best he could. But I think the chief pressure was coming from the constituencies out on the west coast. They were reaching the Congress and in turn the Congress pressured the Executive.

MR. MACBETH: Had the President expressed views in general terms as to what he wanted done if the Justice Department was amenable to it?

MR. McCLOY: I think as I recall, and mind you now this is 40 years ago -- I can only recall one meeting with the President, but I do remember talking to Mr. Stimson from time to time. He was discussing constantly military

considerations, military necessities and whatever the military people thought ought to be done by way of security. He was quite aware of the dangers he thought the concentrations of the Japanese in the sensitive areas presented; this is the thing that he constantly stressed, as I say almost to the exclusion of any consideration of the safety of the Japanese American population from local harassment which was a real consideration that the Army had because of the fear of reprisals in the Philippines.

MR. MACBETH: You have emphasized in your testimony, discussing the barn burnings and indications of other kinds of possible vigilante activities taking place. Do you believe that if the situation on the west coast had been significantly different there had been none of this public clamour, none of the possible hostile actions toward the Japanese Americans, that the decision taken by the Government in the course following might have been significantly different?

MR. McCLOY: I would be speculating and have no basis for an opinion on it. I wasn't particularly familiar with the west coast until Pearl Harbor occurred.

MR. MACBETH: Again, maybe this is a suggestion in looking at that question, the situation of Hawaii seems to be different not only because of martial law, but also that there was much less strong public feeling apparent; that some measure to some way evacuate or segregate the Japanese aliens and the Japanese American citizens was absolutely necessary; so that it forms in contrast to the west coast in that way as well. Is that --

MR. McCLOY: I think one of the chief elements throughout this whole thing was the concept due to one reason or another, that there was a heavy concentration of Japanese population in sensitive areas, they seemed to join together; once they were distributed there didn't seem to be such antagonism there, maybe some of it was due to economics, maybe some of it was entirely out of fear that they were too close to sensitive areas. But it was that element of concentration, plus the time element, I think which got people thinking early on, and the constant pressures that were coming from the west coast that were really agitating the White House to do something, and to do it quickly.

We can't sit back here 40 years afterwards and say you should have done it this way or that way. Looking back on it, it might, of course, have been done a little bit differently.

MR. MACBETH: That's certainly difficult, but it is obviously important to the Commission to try and see what happened.

MR. McCLOY: Putting the facts together consider the nature of the disaster and I think you come out with the conclusion referred to in my statement.

MR. MACBETH: I take it at least there is a real possibility in your mind that if the public contacts of the reaction from the Congress and particularly the west coast congressmen and west coast political figures and vigilante activities, that the course followed by the Government might have been significantly different?

MR. McCLOY: I would have to guess. Even if the pressures on the White House were less, I can well understand that the shock of Pearl Harbor itself and the loss of the fleet

could themselves have been enough to induce the President to act just as he did.

MR. MACBETH: Another item that I think needs a little elucidation is the fact that obviously by evacuating the alien citizens from the west coast, there was the clear indication from the government that this is a population that was intentionally dangerous or had potential saboteurs in it.

At the same time, it has been the position of the War Department, the government, that those people were free, simply to resettle on their own in the interior.

That freedom to settle seems to suggest that the amount of danger, the potential danger that was seen was, in fact, quite small, is that correct?

MR. McCLOY: Goodness knows, Mr. Macbeth, I don't know. I can't remember what was going through their minds when they started to think about this thing, the exposure on the whole west coast.

Taking the west coast as a whole, there were these concentrated areas in various significant parts of the west coast, so I can't say that they would have been small. It was certainly concentrated and certainly an acute source of danger, or we thought it was.

MR. MACBETH: But obviously not -- at least in terms of the actual people involved, not sufficiently dangerous, potentially dangerous that there was any sense on the part of the War Department that that population had to be controlled

once they were off the Pacific Coast?

MR. McCLOY: The whole idea was to get them off these sensitive areas where the potential for harm was apparently quite apparent, and once you got them into the interior where you could control it better, we were happy, and the sooner we could get rid of it, the better. This was a very difficult job for the War Department to undertake, and, mind you, I had other things to do. I had a whirlwind situation to cope with at that time, because we had two wars, and I had to deal with a whole lot of other things besides the Japanese relocation. We spent as much time as we could on it, but we weren't equipped to deal with it and we had to -- I keep referring to the time element involved, but I was as busy as I could be at that time dealing with all sorts of questions on the Atlantic side of the ocean as well as the Pacific, and things were going through a kaleidoscopic sort of way. The fact that the men who did make the major decisions were able to do so and spend as much time and thought and consideration on the subject as they did was very impressive to me. I was very impressed by the sensitiveness of Mr. Stimson, and for that matter Mr. Biddle, as well as the President.

This was a busy time, mind you; there was something besides Japanese relocation on our minds. Beset by wars on two ocean fronts, the safety of the country was the chief priority.

MR. MACBETH: Just so we are clear on this point though, it is correct that once the Japanese aliens and Japanese American citizens were out of the military zones on the west coast, it was

always the Army's position that it had no interest in direct control of the population of the interior there?

MR. McCLOY: That's correct, and the sooner the military could get out of the way in the relocation, the sooner we could get back to our main priority.

MR. MACBETH: Was there in the War Department or in the Army any organized way in which that question would be raised as time went on? Obviously the battle of Midway at least in retrospect is one thing many people have said was an indication that the west coast defenses were sufficiently secured, that people could return to the coast, that obviously was quite an early date.

Was there any way in which the War Department was looking for early and appropriate time to cancel this program and allow --

MR. McCLOY: I think the War Department from the very beginning was thinking of this thing as a relocation problem. It was an annoying thing for the War Department to have to do, but there wasn't anybody but the War Department that had the logistic ability to cope with it. But we always wanted to get rid of it.

You had Bendetsen here yesterday. He had a very difficult job to do, and he had to deal with many thousands of people -- men, women and children -- and it was a complicated logistic problem. I always thought his concept of putting them in the assembly camps first was rather brilliant. He

got the Distinguished Service Medal for having done it.

But it was all in that direction. The speed with which it had to be done was always in his mind.

I want to come back to Midway -- sure, Midway came on fairly early, but we certainly couldn't turn it in reverse and say now the Japanese are no longer any danger; let's go back to this. It took time to adjust to Midway -- the significance of Midway -- you couldn't tell on June 7th that we were going to win the war. We did have a much better prospect on June 7th than we previously thought we had.

MR. MACBETH: Mr. Ennis' testimony was much the same yesterday afternoon.

MR. McCLOY: Who is this?

MR. MACBETH: Edward Ennis. Obviously he was taking the position inside the Justice Department that this program should not go forward, but said that effectively, for instance in the summer of '42 after the Battle of Midway, it would have been nonsensical to go back and attempt to re-argue the point.

MR. McCLOY: I know him very well; I worked with him every day. He saw a civil rights problem under every bedstead, but we couldn't follow all his sensitivities in that regard. I have great respect for Ennis; he worked most cooperatively with us. I'm glad to see that he is sensitive to the fact that we couldn't put this thing suddenly in reverse. It doesn't do any good to sit here and try to adjust to a national crisis 40 years after the event. I know this is a departmental community down here, and one department is

jealous of another department, and when I say I think the War Department handled it in fact a little more deliberately and sympathetically than some of the civilian relocation agencies did, I may be a little departmental myself but we were all a part of the United States Government, and there was never any doubt that the U.S. Government deliberately took the action it did.

But I do want to say I think that Mr. Ennis cooperated and Mr. Biddle did. Biddle was clearer on his judgments as to what the constitutionality of the action was. But I suggest that is really irrelevant 40 years after the attack who did or did not agree with the Supreme Court.

MR. MACBETH: Let me turn again for a moment to the 442nd, and really from your perspective what the wartime history of the Japanese alien citizen population was. Wouldn't it be fair to say, looking at the 442nd and the general history of the war, that it was an overwhelming history of loyalty to this country on behalf of the Japanese aliens and citizens?

MR. McCLOY: Oh, yes, of course; as I say, I created it, because so many Japanese wanted to prove their loyalty. If Midway had been lost, there might have been some who would have re-pledged allegiance to the Emperor's side. I'm not saying they all would have been steadfast, but the record of that unit completely convinced me. I was warmed by their assertions of loyalty and how they wished to prove it -- to the point of the risk of life, and from the way the Japanese

community responded when they had the opportunity to show their loyalty was something I think that all of us ought to greatly admire.

Wasn't it Jefferson who said he wanted certain things put on his tombstone that he was proud of having a part in? I want my tombstone to read "He helped form the 442nd."

MR. MACBETH: Admittedly taking into retrospective of hindsight, history of loyalty through the war makes it perfectly possible in your mind to come to the conclusion that with the knowledge we have now that the evacuation program may not at all have been essential to the war effort in 1942?

MR. McCLOY: I can't speculate; I don't know. Suppose we had lost Midway?

MR. MACBETH: Well, I'm asking really to take it from the point of view admittedly the backward look through history of one fact that happened, and suggest that, given that, not given what you saw in front of you in 1942, that that can fairly lead to the conclusion it may not have been essential to the war effort.

MR. McCLOY: I have no comment on that. I did, and the men I'm talking about did what they thought was necessary to do at the time.

MR. MACBETH: I'm not disputing that.

MR. McCLOY: I can't speculate.

JUSTICE GOLDBERG: (inaudible)

MR. McCLOY: I'm sorry, I can't hear you.

JUSTICE GOLDBERG: (inaudible)

MR. McCLOY: I don't know what would have happened. Suppose at Midway we had lost? Who knows what would have happened?

JUSTICE GOLDBERG: The generals, the admirals, because we had intercepted the Japanese codes and knew exactly --

MR. McCLOY: That is why we won. To some extent we won that with the help of the intercepts but it was still a close call. So many of our pilots killed. I am told 85 percent of our bomber pilots were killed at Midway.

MR. MACBETH: That was really my final question.

CHAIR BERNSTEIN: Congressman Lungren?

VICE CHAIR LUNGREN: Mr. McCloy, you mentioned in your prepared remarks, and I think you also stated it here, that you felt that contrary to what some comments we had heard, that you felt the President and some of his top advisers took this decision very seriously with respect to the relocation. Can you elaborate on that a bit?

MR. McCLOY: Well, I think the evidence, thinking back on it, shows that he did. How did I know what was in President Roosevelt's mind? I was very close to Mr. Stimson; I just lived around the corner from him, and I used to see him frequently in the evening. He and I would meet at Woodley, his Washington home, and pick up the course of the day there. We talked about this problem and he referred many times to me about the President's attitude on this question -- as to what his attitude was in regard to it, so I have some familiarity

with what the President's attitude was. I can certainly testify firsthand as to what Mr. Stimson reported to me regarding the President's attitude. From this, I knew the President was concerned about it, and he didn't treat it casually. He was full of the idea that it must be dealt with, if dealt at all, on the basis of the military necessity.

I think that he wasn't perhaps as profound a constitutional lawyer as Mr. Stimson was, although he certainly had a lot of experience with the Constitution as a lawyer and as President. Mr. Stimson was disposed to dwell rather heavily on the constitutional aspect of the problem. What Mr. Stimson talked to me about, several times, was the President's attitude. As I said, the President was a former naval person; he had some of the instincts about the fear of the Japanese aggression that ran through the Navy because that was their fear, particularly in the Pacific, and they used to talk about the necessity of at some point checking such aggressions.

But the President didn't have any hesitancy in saying what must be done on the grounds of military necessity, and I gained the impression that only military necessity governed his thinking. That is why I am so clear about the fact that there was no racism in connection with his decision. This was true in respect to Mr. Roosevelt, as well as to Mr. Stimson.

I have the impression of Mr. Roosevelt's preoccupation with the problem through Mr. Stimson who talked at length, both with him and Francis Biddle about the propriety of the action.

VICE CHAIR LUNGREN: With respect to the propriety of constitutionality; did you have a number of occasions to talk with Mr. Stimson about this?

MR. McCLOY: Yes.

VICE CHAIR LUNGREN: And I know we have some recorded statements here, but can you tell me the gist of that? Were there discussions about in fact whether it was constitutional, whether the military necessity was in fact there --

MR. McCLOY: Mr. Stimson was a lawyer, and he prided himself as a constitutional lawyer. We talked about the theoretical constitutionality of this thing. I was talking to Mr. Fisher on the way down here this morning, and I recalled that one of the analogies that we used in discussing the problem that he used (was) the analogy of the right of the fire chief to raze a building in order to shut off the course of a fire through a city block.

VICE CHAIR LUNGREN: One of the things I would like to sort of touch on is the difference in treatment, and you've already alluded to it somewhat, but I would like to draw it out a little bit. The difference between the way we treated the Italian Americans and German Americans and Japanese Americans. Mr. Ennis, I believe mentioned yesterday that we had embarked on the process of creating some internment camps with the expectation that they would be utilized for Italian Americans and German Americans, I guess in anticipation of the fact that the probability was that we would be involved in the war in the European theater.

MR. McCLOY: There was certainly the threat of it.

VICE CHAIR LUNGREN: And seemed to suggest that we had not in fact anticipated, at least as readily or as quickly, participation in the Pacific theater; and by that seemed to suggest we were prepared in some way to deal with the Italian Americans and German Americans on individual bases, but were not with respect to the Japanese Americans.

Can you shed any light on that? Is it in fact an accurate --

MR. McCLOY: I'm afraid I can't remember that. I had nothing to do with the Italian or the Germans in this connection, because I had other things to do. I was not the security officer; I was in charge of the political and military aspects of the war. I have only a vague idea of what was happening on the east coast in connection with Germans and Italians. In the first place, no attack had taken place on the east coast by any Europeans and in the second place the European descended populations were more or less concentrated and therefore more unwieldy on the east coast.

VICE CHAIR LUNGREN: Another question that has been raised is the fact that we did not try and remove Italian American communities from concentrations on the east coast, or German Americans if they happened to be in any concentrations on the east coast.

Was there any talk in your discussion about how we dealt with Japanese Americans and Japanese nations on the west coast, in terms of differentiating between that and the situation?

MR. McCLOY: Yes, I think the thought was when we tackled with the Japanese situation that it might be practical to deal with this on a group basis whereas it wouldn't have been practical on the east coast to take care of the Germans and Italians and other sizeable European minorities in this manner on the east coast. It was too big a problem. But it was not too big a problem, logistically, on the west coast because of the concentration.

I wonder, Ms. Chairman, if we could take a short break?

CHAIR BERNSTEIN: Certainly. We will take a 10-minute recess.

(Short recess was taken)

CHAIR BERNSTEIN: Come to order, please.

Congressman Lungren.

VICE CHAIR LUNGREN: Thank you very much.

Mr. McCloy, you mentioned that had we not prevailed in the Battle of Midway there was nothing stopping the Japanese forces from going all the way to the west coast. I wonder, was there a perceived threat on the east coast of a similar nature of the European theater?

MR. McCLOY: No, I don't think so. At that time there were existing treaties and we were not so fearful of impending war, I suppose, with Nazi Germany and I don't think there was any fear of an impending attack on the part of the central powers.

VICE CHAIR LUNGREN: In going through how the decisions were made, you have been most helpful, and shed

some light on it. I wonder, how much credence was given, or to put it another way, how much did you rely on the opinions that you were getting from your military commander on the west coast, General DeWitt, in his insistence, in terms of sizing up the situation for the decision to deal with the Japanese Americans and Japanese nationals on the west coast?

Mr. McCLOY: Well, I think we were bound to give a good deal of respect to the Commanding General of the West Coast, who had the responsibility for its defense. It was, however, not only that of General DeWitt, but of other figures, particularly naval figures who expressed the same concern. I guess it was primarily to General DeWitt's headquarters we were looking for the real decisions -- the answer to the question of military necessity, e.g., but it was of course supplemented by this rather heavy pressure coming civilian agencies on the west coast that were not necessarily military, but which were concerned, and which were asking the President of the United States to do something about it. I suppose General Marshall in the War Department, though he had other things to do at that time, was giving considerable thought to the west coast, and the east coast command must have been conferring closely with the staff on the west coast.

VICE CHAIR LUNGREN: Mr. McCloy, you have declined to basically answer hypothetical questions about looking back in retrospect whether different decisions ought to be made. I'm in a different position; I'm one who was not around at that time, and looking back I think I have come to the conclusion

that we made an error. But what I'm trying to really sort of ascertain, some of the fundamental reasons why we made the decision we did, and it strikes me as being a congressman from California even today, I find that oftentimes it is difficult to have people understand on the east coast who we are and what we are on the west coast, and I wonder how much that entered into the decision back here.

In other words, in terms of the top decision makers in our government, had there been much opportunity for you, for instance, or for Mr. Stimson and others to have in any way become familiar with the Japanese American community in the United States? Was it something that was not familiar to you and those others at that time?

MR. McCLOY: I don't think it was familiar to me. I was born on the east coast, and there was no concentration of Japanese communities in the area I came from. Of course, there were Japanese families in the area, but we never had in the east coast from where I came from the high sensitivity to the Oriental immigration that you have on the west coast, which I have since learned a good deal about.

VICE CHAIR LUNGREN: I think you even made the statement that you had not thought about much or even known much about the west coast until after Pearl Harbor.

MR. McCLOY: That's right.

VICE CHAIR LUNGREN: Was this a learning experience for you and others at the same time you were called to make decisions? I'm must trying to understand --

MR. McCLOY: I spent a good bit of time on the west coast, but mainly up north. I spent a great deal of time in Alaska, and I got to know the west coast and the Northwest, and the San Francisco area pretty well.

I did have a good bit of familiarity, I suppose with the lawyers practicing law on the west coast prior to my going to Washington, but I was not -- I was not really familiar with the relationships of the local populations of the Japanese until the war came.

VICE CHAIR LUNGREN: Were you involved in any personal way in the decision-making with respect to the evacuation of the residents of the Aleutian Islands?

MR. McCLOY: No, I had nothing to do with that. I landed on Kiska one time. I was also up in -- but that was after the war.

VICE CHAIR LUNGREN: You mentioned earlier about the difference in the west coast situation and that which had been obtained in Hawaii, and made mention of the fact that the significant difference was the martial law which had been imposed in Hawaii. Had there been serious consideration of applying martial law either to the entire west coast of the United States, or parts thereof prior to the time the decision was made for evacuation?

MR. McCLOY: I think there was some consideration given to it, but I don't believe any serious thought -- a proposal was made for establishing it with all its implications, but it was quickly discarded as being rather impractical on the continent.

VICE CHAIR LUNGREN: There were some comments yesterday about the fact that -- by Mr. Bendetsen -- that he and others had at least internally suggested that perhaps a method of creating, I think the word they used was "islands" around various military installations on the west coast from which all Japanese Americans or Japanese nationals or all citizens may have been prohibited unless they were then allowed back in by means of a permit. Do you recall discussions of that.

MR. McCLOY: I don't recall discussions about it. It could be. It's ridiculous to sit here, as I say in this marble hall and say it may have been done this way, it may have been done that way when we had the pressure at that particular point with war coming in as from the West the East. And you just can't speculate intelligently as to what might have been done or what might not have been done in view of the fact what was done seemed to have turned out pretty well.

VICE CHAIR LUNGREN: Well, I agree with you, it's very difficult to speculate. As a famous political philosopher named Don Meredith said one time on Monday night television, "If you had candy and nuts every day it would be Christmas," but I would like to get some information in terms of the alternatives that were considered, I'm not trying to cast blame or say one person was right or one person was wrong; I'm just trying to get an idea of the decision-making process and the reasons for which maybe some alternatives were rejected, so I can understand what the pressures were at that time.

MR. McCLOY: Well, there were pressures, let me tell you, and they were coming very heavily from the west coast, and you had to act promptly; as I say, you can't put too much emphasis on it. The defense of the west coast was impaired by the sudden loss of the fleet; there was a fear around, and we felt that real exigencies had to be met; they were met and they were met rather well with a realization of the (inaudible) and even the hardships that were involved. They were met under wartime conditions, and for us to sit here so long afterwards and say why was it not done this way or why wasn't it done that way, after the equivalent of well over $100 million were almost appropriated to defray damages then much more reasonably determined I think is quite fatuous of us. Particularly after the equivalent of $150 million was made available to meet any damages the evacuees may have suffered when proofs were (inaudible) and witnesses were.

VICE CHAIR LUNGREN: Thank you very much.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: Mr. McCloy, let me first say that I think your letter addressed to Mr. Paul Bannai, dated July 24, 1981, was a well-written letter, and perhaps as strong an explanation if not defense of the government policy and practices in 1942 that to my knowledge has been presented to the Commission. However, I would like to go over several matters that are contained in that letter with you, and if you would further discuss them for the Commission.

You, like Mr. Ennis and others, have been very adamant about not calling what happened in 1942 an internment; you prefer the word "relocation," because you believe it was not internment and in fact was relocation, is that correct?

MR. McCLOY: Yes, that is correct. We didn't -- the emphasis was on the relocation aspects. It was with the idea of relieving that concentration on the west coast.

SENATOR BROOKE: And you also took issue with the fact that some say that the Japanese Americans were treated callously and shameful, is that correct?

MR. McCLOY: Yes, I say that; I say considering all the circumstances it was a creditable operation, worked out in the exigencies of wartime.

SENATOR BROOKE: Now, were you ever physically on the west coast during this time?

MR. McCLOY: Oh, yes.

SENATOR BROOKE: Or did you stay in the War Department in Washington?

MR. McCLOY: No, I went out to the west coast, went to Hawaii, in the Aleutian Islands.

SENATOR BROOKE: Did you visit the camps?

MR. McCLOY: Yes.

SENATOR BROOKE: Did you see that the camps had barbed wires and guards with armed rifles and dogs, or did you not see any of that?

MR. McCLOY: I don't remember any dogs, there may have been barbed wire, I can't say. Barbed wire was a

relatively cheap and usual form of enclosure in the camps. It was there to keep track of the evacuees not to "incarcerate" them.

In the atomsphere of the camp I visited, it was very pleasant, it was very good and as camps go, rather pleasant.

SENATOR BROOKE: Did you visit Tule Lake?

MR. McCLOY: Yes, I visited Tule Lake.

SENATOR BROOKE: Would you say the atmosphere there --

MR. McCLOY: There were problems that developed at Tule Lake, but I'm talking about the other camps -- I knew I'd hear some reactions in the rear of the room as I said this, but I was there and I sat down with the Japanese leaders and had perfectly free exchange with them and they performed some of their skills. It was a very agreeable sort of exchange. But I can't say I was there every day. I was very much interested in them and I followed them closely in the efforts that were being made to relocate them without incidents.

SENATOR BROOKE: But I've done a lot of camp inspection and, both as an officer in the Army and as a member of the United States Senate for some time, and if they know you were coming it's a little different.

MR. McCLOY: Of course, they show you the best things.

SENATOR BROOKE: We both know that, I'm sure.

MR. McCLOY: That's right.

SENATOR BROOKE: But at least at the time you were there, you would not describe the conditions as shameful?

MR. McCLOY: Not at all. I have in mind that it was a rather easy atmosphere; the leaders had a chance to talk to me and I talked back. It may have been all articulated, but I don't think it was, because I'm thinking the motivation was to get those people relocated and get rid of the problem, because it was not a problem that the Army liked to be involved in.

SENATOR BROOKE: Were the guards there to the best of your knowledge to keep people from leaving the camp?

MR. McCLOY: Well, I heard Mr. Bendetsen say that. I do know that the chief -- not the chief, but one of the chief motivations of the Army -- Mr. Stimson was to see to it that there was no harassment, no abuses by the local population and of the Japanese American population out of fear -- they wanted to avoid -- he had strongly in mind that there was an element of protection of them against the prejudices of the local community which it was our responsibility to take into account.

SENATOR BROOKE: Do you know of any instances where there was harrassment or attempts to invade the camps by outsiders?

MR. McCLOY: No, I don't know of any such incidents. But we did have to keep track of all the relocatees and I had many other things to do, as I have said due to the outbreak of war on two fronts.

SENATOR BROOKE: I can appreciate that, Mr. McCloy, we all did.

We have had voluminous testimony from persons who were actually evacuees or internees of whichever you choose to

use, that the conditions at these camps were deplorable, not shameful, and that there were armed guards, that in some instances, dogs, that they were not allowed -- the evacuees were not allowed to come and go as they so chose, and generally speaking it certainly was not at all what could be described as a comfortable place to live. I can imagine no camp is really a comfortable place to live.

MR. McCLOY: I have lived in a lot of camps and most of them are uncomfortable.

SENATOR BROOKE: I have too and none of them are comfortable. I guess everything is a question of degree. Tule Lake, where you visited, happened to become for us one of the most deplorable situations that existed among the camps.

MR. McCLOY: I've heard that there was bad morale there, but the problem there stirred up animosities, they had to call back Bendetsen from a very interesting job he had in the European landings, to get the thing back on the track again. But I've always heard that Tule Camp was a problem.

SENATOR BROOKE: Were you familiar with the Munson Report?

MR. McCLOY: Yes.

SENATOR BROOKE: To refresh your recollection, C.B. Munson was a special representataive of the State Department, and that Munson Study, the Japanese on the west coast, was reportedly given to the President, Franklin D. Roosevelt, on November 7, 1941.

MR. McCLOY: Before the attack?

SENATOR BROOKE: Before the attack.

MR. McCLOY: I think I've heard of it.

SENATOR BROOKE: To refresh your recollection, the report indicated that the Japanese Americans living on the west coast did not in fact pose a serious threat to the security of the United States. Does that refresh your recollection?

MR. McCLOY: Well, I think I remember -- I think at one time I saw somebody that made reference to the Munson Report, and it did indicate that an investigation had been made and nobody saw any evidence of the fundamental disloyalty of the Japapese population on the west coast.

SENATOR BROOKE: That's the report to which I refer.

MR. McCLOY: I'm generally familiar with it.

SENATOR BROOKE: Now, do you think that Secretary Stimson and the President and others who ultimately made the decision after Pearl Harbor gave any weight to the Munson Report?

MR. McCLOY: On, I think Mr. Stimson -- well, I don't know, I'd better be careful about that.

SENATOR BROOKE: If you know.

MR. McCLOY: I don't know if Mr. Stimson knew about it. I have the impression that he did. I have the impression in talking to Secretary Hull, who was his fellow cabinet minister that reference was made to that, but that's to the best of my recollection, but I can't be sure. I just don't know.

SENATOR BROOKE: Well, as I understand J. Franklin Carter did send the report on to the President on that date.

MR. McCLOY: Yes, sir.

SENATOR BROOKE: Now, I'm not certain as to whether the President ever actually saw it himself, or whether he just read it or what impact it had on the President's decision ultimately, or if it was brought back at the time when they were discussing the whole question of evacuation of the Japanese Americans on the west coast.

MR. McCLOY: I don't know.

SENATOR BROOKE: You can't help us on that?

MR. McCLOY: I can't help you on that. I only would be reaching out into the dim recesses of my mind to say that I think I heard of it.

SENATOR BROOKE: Do you know where there were any reports -- let me correct that. Do you have knowledge of any act of sabotage or espionage on the part of any Japanese Americans in this period we are discussing?

MR. McCLOY: During the period before or after Pearl Harbor?

SENATOR BROOKE: Yes.

MR. McCLOY: I don't believe I can recall any -- I would say espionage, yes; but sabotage, I don't remember any.

SENATOR BROOKE: Now to espionage you say yes. Are you at liberty and do you recall what act of espionage --

MR. McCLOY: I just remember seeing reports of -- I think they were naval reports of suspecting spies, maybe no more than suspecting, apprehended or suspected in terms of trying to observe convoys or what have you in the Pacific.

There were a lot of reports about this man who was posing as a farmer who was really a spy, and that sort of thing.

SENATOR BROOKE: Well, during the war there were all sorts of things, a neighbor might say I saw a flashlight under a certain window.

MR. McCLOY: After Pearl Harbor we got hundreds of those reports of signaling from the shore, but there was a regular flow of -- when I first came to the War Department I was in intelligence, and I worked for General Sherman Miles, and I saw a lot of reports, and I remember seeing reports of pretty well authenticated pieces of espionage. I don't remember anything in there of sabotage.

SENATOR BROOKE: Well, I certainly would not deny that there were some Japanese spies and there were probably German spies.

MR. McCLOY: Japanese spies and Russian spies.

SENATOR BROOKE: And Russian spies and whatever. But I'm speaking now of acts of sabotage by the Japanese American population.

MR. McCLOY: It wasn't a great lot of -- there was talk and rumor about it.

SENATOR BROOKE: So it is fair to say then that this decision really was made primarily upon the potential threat?

MR. McCLOY: That's right.

SENATOR BROOKE: Rather than on the actual threat.

MR. McCLOY: No question about that.

SENATOR BROOKE: Now you stated, I think, in response to Congressman Lungren that Midway was not the end of the war but the turning point. But do you believe it was not, in fact, not really giving reason for you to change your policy at that time?

MR. McCLOY: It's hard to change the momentum which started there, because we always talked about it, and we didn't do it for some time after that; we were afraid of losing the war.

SENATOR BROOKE: So sometime you considered the change of policy?

MR. McCLOY: It was not so long after that that we began to think about it in the War Department. It was the idea that we wanted to be released of this thing, and the element of military security of necessity was out of the way, for goodness sake, let's get these people out of our hair. "Hair" is the wrong word to say there, but get rid of these difficult problems.

SENATOR BROOKE: Mr. McCloy, we have had testimony as to the racial climate on the west coast prior to Pearl Harbor. I don't think there has been a witness who has denied that there was a great deal of racism existing on the west coast prior to Pearl Harbor, that the Japanese have made serious economic advancements at least to the perceived depth, and that if racism was granted it certainly was very perceivable on the west coast even before Pearl Harbor.

Why are you so sure that racism did not enter into the decision to evacuate 120,000 Japanese Americans? You seem to be very positive --

MR. McCLOY: Yes, I'm very positive, because I knew the men who were making the decisions, who had the responsibilities there.

SENATOR BROOKE: Based upon that?

MR. McCLOY: Yes, based upon that, and I don't think Mr. Stimson was capable of being racist, nor do I think that Franklin Roosevelt was capable of being that, or Francis Biddle. Maybe that yellow journalism, maybe it produced a lot of these telegrams to the Congress, but it didn't enter into Mr. Stimson's mind or Franklin Roosevelt's, I am sure of that.

SENATOR BROOKE. You are ahead of my question, because my next question is, do you believe it could have motivated the flow of telegrams the congressional demand, the population demand on the west coast that something be done and done immediately?

MR. McCLOY: I suppose so, but I don't know. I would be speculating, I suppose to produce that flow of telegrams, I think mainly the fact they were terrified that there was a real fear of invasion of the west coast and they needed this dangerous element taken care of. And so I can't say here that there was absolutely no evidence of racism on anybody's part, but I can say that the people that we are dealing with this thing were men of real statesmanship and

integrity, and it sends me up the wall when somebody suggests we ought to apologize for what they did.

SENATOR BROOKE: Well, sometimes men of great integrity and great character and strength have to react, and if great political pressures are on them, and I presume political pressures --

MR. McCLOY: There was no political pressure on Mr. Stimson, he is something of my hero, he was a man that had been Secretary of State of the United States, he was twice Secretary of War --

SENATOR BROOKE: I know his record is very distinguished.

MR. McCLOY: I don't have to repeat that and --

SENATOR BROOKE: Well, at least you don't believe the President and Mr. Stimson and Mr. Biddle were motivated by racism?

MR. McCLOY: That is fair.

JUSTICE GOLDGERG: You would not say -- pardon me -- that the President --

MR. McCLOY: That's the only time I ever voted Democratic.

JUSTICE GOLDBERG: You would not say that Franklin Roosevelt was immune from political --

MR. McCLOY: He was about as sensitive a political animal as I ever met. And one of the greatest men I ever met too.

SENATOR BROOKE: That is why I was suggesting to you possibly he had to be concerned, this was the west coast of the country and the Governor of the State of California --

I won't say pressuring, but they were very much concerned about the safety and security of their state; a lot of the members of the Congress along the west coast, the State of Oregon, the States of Washington, California, they are all rather large delegations, you know, all those things enter into a decision.

Every president has to consider those factors when he makes a decision, and I just wondered if it was possible that this president and members of his cabinet might have been not persuasive, they may have taken that into considerations in their decision. But I'm not trying to force you to say anything. You are obviously showing you are a man that can't be forced to say anything, and I understand that, and I respect that. I just have to ask you these qustions because we are trying to gather the facts as they were at that time.

Now, on March 17, 1944, you were still Assistant Secretary of War?

MR. McCLOY: That's right.

SENATOR BROOKE: And I have a copy of a memorandum which bears your initials, JJMcC, and it is a memorandum from the Secretary of War, I would like to read it to you to refresh your recollection.

"Here are two memoranda which began to discuss the return of the persons of Japanese ancestry with the cabinet today. The first is a statement which could be read by the cabinet, and the second is a statement for information. I think you should point out to the cabinet this matter should

be kept in absolute confidence until some decision is made, otherwise anti-Japanese agitation on the west coast could begin all over again."

You may not recall that, I'll show it to you if you wish.

MR. McCLOY: I don't think that's necessary.

SENATOR BROOKE: And then I would only read the first of the memorandum, because I think is important in our discussion to clarify some of it.

It is entitled Memorandum of Return of Persons of Japanese Ancestry to the west coast to be read by the Secretary of War to the Cabinet: "I think it is advisable to raise before the Cabinet the question which we may soon be faced, the question of the return of persons of Japanese ancestry to the west coast. In the spring of 1942, 112,000 persons of Japanese descent, both aliens and citizens were evacuated from California, western Oregon, western Washington and southern Arizona. This was made necessary necessary by the difficulty of handling the problem of potential disloyalty among persons of Japanese descent on an individual basis with the speed which was required by the unfavorable military situation after Pearl Harbor."

It is very consistent with what you said this morning.

MR. McCLOY: I'm surprised!

SENATOR BROOKE: Well, I'm not, let me say that.

". . .in view of the improved military situation in the Pacific and the time which has been available since the

evacuation to discover and take appropriate measures against persons of Japanese descent throughout this land. We will soon be faced with a situation where it can no longer be said that the wholesale exclusion of persons of Japanese extraction from the west coast is required by military necessity. Once this situation exists the problem of the return of the Japanese to the west coast is not primarily a military problem, but one involving questions of national policy. The War Department will still have certain specific interests to see that there is adequate schooling available to the children so there is protection against sabotage and espionage, and also to see that the return is not accompanied by riot or disorder which will give the Japanese government an excuse to commit reprisals on our prisoners of war. The main problem will be caused by the violent objections which will be caused by a very articulate group of people on the west coast, particularly Californians, and a large portion of the press have to in any return or persons of Japanese descent to the west coast. The issue of return to the Japanese to the west coast will become a political football. Local administrators, law enforcement agencies are unlikely to assist the evacuees in their return, and will be very likely opposed to them. It is also likely that local sentiment will be stirred up to a point where it is unsafe for the evacuees to return. Returning evacuees will also have economic difficulties. At the time of the evacuation when the Government controlled a large number of their businesses, they were liquidated, their cars were sold, and

arrangements of leases of their farms were terminated. Unless some agency undertakes to get some facilities that they need, they will have difficulty in supporting themselves.

"I do not mention these difficulties as a reason for keeping persons of Japanese descent from the west coast after military necessity which required the evacuation cease to exist. This would not only be illegal, but would probably result in institutionalizing a large number of the evacuees who have been unable to make a start anywhere else, and present the government with another American Indian problem. . ."

MR. McCLOY: To do what?

SENATOR BROOKE: Another American Indian problem.

"And I do mention then because it shows that if resettlement on the west coast is to be permitted, the Government must take affirmative action in making the resettlement effective. When return is put into effect, the War Department is prepared to assist it in announcing it is consistent with military necessity, but this alone is not enough. Other government agencies will have to be prepared to take firm steps in the face of bitter political opposition to assume short that these people are not denied their civil rights and are given a square deal economically.

"The last question which remains is the bases on which the Japanese Americans returning to the west coast shall be screened. Since citizenship is not an acceptable criteria, since the family situation of the Japanese is such that unless both aliens and citizens are permitted to return,

the return will not be feasible. I believe it is advisable for the civilian agencies, such as the War Relocation Authority and the Justice Department to exercise the primary responsibility for the screening. It is assumed that the War Department, since it has the responsibility for the military aspect of the turn, will have some say in the method of screening."

So you were really a man before your time, Mr. McCloy. You saw it coming.

Now the election of 1944 in November -- your memorandum was dated, as I recall, March 17, 1944. At any time did you or any others postpone the return or suggest a postponement of the return of these evacuees until the national elections of 1944?

MR. McCLOY: I didn't; it never crossed my mind.

SENATOR BROOKE: You saw it as a political football in March?

MR. McCLOY: Yes, but Senator, we were in the War Department; we were anxious to get rid of this problem. It was -- we wanted to get the people released and as soon as we were free of the concept of military necessity, we wanted to have them returned. I prepared that memorandum for Mr. Stimson in connection with a cabinet meeting --

SENATOR BROOKE: You did?

MR. McCLOY: Yes, sir, and that was -- in the first place, I was a Republican, I was not thinking of the advantage to the Democrats.

It's a strange thing, I've been a Republican all my life and never had a job with anybody but the Democrats.

JUSTICE GOLDBERG: It shows how good our party was.

SENATOR BROOKE: But it also shows you were a Republican that voted for FDR!

MR. McCLOY: This was the first time -- I only did that once.

SENATOR BROOKE: Was that before 1944?

MR. McCLOY: This had no relation -- let's get going with this thing and get it out of the way.

SENATOR BROOKE: I'm not suggesting that your memorandum -- I want that clear, I'm not suggesting that at all, because I think when you referred to the political football, you had insight and you saw what was happening. I'm suggesting to you that at some time a decision may have been made to postpone the return of the evacuees until after the November elections of 1944. Now if you know you know, if you don't know you don't know.

MR. McCLOY: No, I don't know anything about it, and it didn't enter into my considerations at all.

SENATOR BROOKE: Not in your consideration, but at any rate you know that they were not returned until after the election of 1944?

MR. McCLOY: At that time it was out of the hands of the Army. Am I not right about that?

SENATOR BROOKE: Yes. The civilian agency had it then. Mr. Fisher seems to want to add something to that; maybe he has some knowledge.

MR. FISHER: I'm reluctant to intervene except when requested. The Army did intervene by designating a General from the Western Defense Command to go and speak to everybody at the site and say we are satisfied with this. There was actually affirmative action taken, Senator, to create the climate of opinion to prevent problems. They picked a highly selective man who had a Congressional Medal of Honor, and he went up and down the west coast speaking at every American Legion group, Sons of the Golden West and everything else, and saying this is worthwhile, we support it, and he was doing before the election. He said we are thinking of doing it and we can support it, and this was done.

Please forgive me for interrupting my client.

SENATOR BROOKE: Not at all.

MR. McCLOY: I remember him, I knew him with the War Department before he went of and won that medal.

SENATOR BROOKE: Well, Mr. McCloy, in your memorandum, you stated you really made the case, you even indicated that how the Japanese were hurt if tenants and leases were terminated, cars were sold, their businesses were liquidated. It was not a good situation.

MR. McCLOY: No, Senator, when you consider the compensation that everybody had to take for the destruction caused by the attack, that they were not unduly discriminated against. Look, I mentioned this morning, I don't know if you were here, but several people when I was sitting back there yesterday, and they didn't like some of the things that

Mr. Bendetsen said; I felt like saying to them, you didn't know Moses, you weren't there then. And I was trying to suggest that all of the disruption that occurred as a result of that attack on Pearl Harbor, we all suffered to some degree and --

JUSTICE GOLDBERG: I, like Senator Brooke, I, with two children, volunteered, left a law practice. My compensation went down to a captain's pay, which at that time was about $350, but I will say this, is there not a big distinction -- I was a volunteer, but is there not -- that is why there was laughter -- is there not a big distinction between serving your country as you did, as Senator Brooke did, as I did, and being stigmatized as disloyal? Is there not a distinction, High Commissioner?

MR. McCLOY: We have all suffered in various ways as a result of the attack.

JUSTICE GOLDBERG: That is the stigma that --

MR. McCLOY: Do you want to testify or --

JUSTICE GOLDBERG: What is the stigma that can attach to a person about being branded as disloyal? Can you think of any --

MR. McCLOY: We didn't brand them as disloyal, we said there is a danger to you and everybody as a result of this peculiar situation that developed on the west coast. All of us suffered, the people who died in Iwo Jima suffered too, and it is not an equal distribution. There was $48 million paid, and I went up on the Hill to testify on behalf of that, and that is 20 times what it was then. I don't

think we can sit back here now and say look, there is a damage that what was caused here that you don't need to present any evidence for. I don't think we should apologize. I don't think they were considering all of the distresses of the attack that occurred, that there should be extra compensation for the Japanese population in spite of the admiration I have for it and all the effort I made during the war and after it, to try to have this thing as well done as effectively done, so that today you do have a situation in the United States where the Japanese population is given full credit for the fundamental loyalty to the United States. It is something which is entirely different than it was before the war.

SENATOR BROOKE: Do you really think the fact that the Japanese are given credit today is a result of their evacuation?

MR. McCLOY: I say it is in part because they were distributed then around the country, and people began to see what good sense these people had, that together with the record of the 442nd Combat Team. It established an entirely new attitude in regard to our Japanese population, and I was one of the first to testify to that. I think the record shows that I have been doing everything I know how to do to see to it that people distressed by that rule were compassionately dealt with, and it is in effect that maybe they didn't have all the renumeration they should have gotten in 1948, but I think today to come back 40 years after the event and say you ought to take a look at it again and give a lump sum to

compensate for this exigency which arise as a result of that attack on the United States. The dead in Pearl Harbor and those who died at Iwo Jima, Tarawa and Tinan were not adequately compensated. Compared to them, the evacuees were quite adequately compensated.

SENATOR BROOKE: Mr. McCloy, obviously you are not on trial here, you are just a witness before this Commission -- a very helpful witness for this Commission; and I don't think anyone is accusing you of any violation of the law or immorality of any sort at all, and you could not have been at all of these camps, and you can't possibly know what happened, and you don't pretend to do that. So you would not say from all the testimony that we had -- nobody has called them atrocities as yet, but certainly some of us know that you had testified to us of what happened in these camps, are acts which you do not condone as well as our government would not condone, but we can't say they are not telling us the truth. There's no reason for us to disbelieve all of the testimony that comes from the State of Washington, it comes from California; it's not organized, some of it may be organized, much of it is not organized; some comes from second and third generation Japanese, but much comes from the Issei, the first generation who actually were in those camps, and were there, so that they were born in those camps. We have had testimony as to the psychological impact. Justice Goldberg raised this about being called disloyal or being branded.

MR. McCLOY: They were not branded.

SENATOR BROOKE: Let's put it then perceived as disloyal. When you are taken out of your home and moved to a camp, your neighbors think, what has he done wrong, or what has she done wrong? Was she disloyal? Is she an alien spy? Is she guilty of sabotage? You can understand that sort of thing. You say that things turned out well. Forgive me if I say this, but if you were in one of the Japanese camps, it may not have turned out well, that's what I'm suggesting to you.

MR. McCLOY: I get the idea that this Commission is sort of given the mission of trying to rehabilitate or increase the renumerations already been given --

SENATOR BROOKE: Not true, Mr. McCloy --

MR. McCLOY: Wait a minute; there has been agitation, at least I've been called up -- the newspapers have called me up and said, "Mr. McCloy, we have been importuned to put an editorial in here, what do you think we ought to do?" It was implied that --

SENATOR BROOKE: Implied by whom?

MR. McCLOY: Not by the Commission. I'm not saying that at all. I'm saying that there are agencies, the Japanese associations somehow have hired public relations firms to create a case, but I think that we have not entirely taken into account the other side of this, and considering all of the distress that has arisen as a result of the attack.

SENATOR BROOKE: That is why you were invited to testify before the Commission and why others were invited --

MR. McCLOY: I know you are not working with any law firm, but I happen to feel there was not enough evidence taken, since that --

SENATOR BROOKE: Then they should have come forward. We are willing to accept them at any time. I said this to Mr. Bendetsen, the colloquy at the time, but I certainly said it, and I believe our Chairperson has said it at the beginning of every meeting that we have had that at any time any person who has any testimony to give to this Commission on, as you call it, the other side, and we don't call it the other side because we listen to all sides of this issue before we make a decision, and the fact we ask these questions doesn't suggest to you how we would vote if called upon to vote. I hope you understand that.

MR. McCLOY: Yes, I understand it; and I'm anxious to testify. I've been testifying, and I think that as I said before, I think that when you take a good look at this thing you will realize that the people who made the decisions made them with the constant realizations that they had the responsibility for the security of the country, and that they did it in a compassionate way, and I think that all of the circumstances which occurred 40 years ago it's very difficult to reproduce here in this room at this time a really objective account of the conditions surrounding the entire affair. I guess I've said this many times and I'll say it again -- I don't think that you can reproduce today, 40 years after the event the situation that existed then, and I think you need

that in order to arrive at a just conclusion.

SENATOR BROOKE: Mr. McCloy, I started this questioning and I will end it with commending you on what I personally believe that I have talked with one or two of my other commissioners, that yours in one of the best written and strongest statements of your position, that defense of the government policy and practice in 1942, and I stand by that statement.

MR. McCLOY: Are you talking about the communication that I sent to Mr. Bannai?

SENATOR BROOKE: Yes, I started out with that, and I will add to that the memorandum you sent to the Secretary of War.

MR. McCLOY: That's a long time ago.

SENATOR BROOKE: Yes, it was a long time ago, but it is very helpful to us, and what the Secretary got and what possibly was read at the cabinet meeting with the President, we don't know that, but we at least have that information.

Thank you very kindly.

MR. McCLOY: Thank you very much.

CHAIR BERNSTEIN: Can you bear us for another few minutes, Mr. McCloy, if you could continue our questioning?

MR. McCLOY: Fine.

CHAIR BERNSTEIN: Mr. Mitchell.

SENATOR MITCHELL: In your answers to Judge Marutani you made a statement which I didn't quite understand, you made it several times: "We didn't want to shoot anybody." Does

that infer a potential clash between the military and civilians in that day?

MR. McCLOY: No, that was from -- I'm only trying to reproduce what President Roosevelt once said; he was afraid of violence and was afraid of prejudicial disorders, which you referred to in your book, Senator, and the difficulties of economic difficulties, undercutting prices in fruit growing valleys out there. And there were suggestions of barn burnings -- I don't know if barn burnings is the right term -- but there was sabotage of some of the fruits and some of the vegetables. There was a fear that there might be civilian riots directed against the Japanese population.

SENATOR MITCHELL: Now you said that the decision on the evacuation was a purely military one. How was the military factors divided from or separated from the civilian factors? You mentioned that Mr. Warren and other people were calling from the west coast. Was that a part of the military factor?

MR. McCLOY: Forgive me, I don't think I said it was purely military. The decisions were made not by the military; they were made by civilians. They were made by President Roosevelt and to some extent by Mr. Stimson. Primarily it was made by the President of the United States, not as Commander-in-Chief of the Army, but as the President of the United States, and however he had to act on the fact that he had his commanders in the field who were claiming that there was potential danger on the west coast that had to

be dealt with if you were really going to provide for the security of the country.

SENATOR MITCHELL: I would like to read you a statement by Colonel Bendetsen made at the Provost Marshal General: "The evacuation has the widest acceptance among the congressional delegations and other Pacific Coast officials. It is undoubtedly the safest course to follow. That is to say as you cannot distinguish or penetrate the Oriental thinking, and as you cannot tell which ones are loyal and which are not, and it is therefore the easiest course to remove them all from the West Coast."

Is that the general thinking of the military of that day?

MR. McCLOY: Well, I know Bendetsen was here yesterday. Did you ask him that question yesterday? That is not my statement.

SENATOR MITCHELL: No, I'm asking you if that was the general feeling of the President, of the Secretary, and you as the Assistant Secretary?

MR. McCLOY: Well, the feeling of the President and the Secretary of War and those who made a decision was that it was impractical considering the time element which was involved to go through what Justice Goldberg suggested the other day, the processing of individual determination of the loyalty in view of the concentrations around the rather sensitive areas in which by accident, I guess rather than by any design, the Japanese population accumulated. In view

of that it seemed the best thing to do was to take this relocation measure rather than try to continue the rather difficult -- extremely difficult and prolonged process of designating the individuals with respect to loyalty.

SENATOR MITCHELL: I think Justice Goldberg indicated that the FBI had suggested that the course had been followed, and then the job had been done. Was it the attitude of the west coast which resulted in the refusal to accept the FBI --

MR. McCLOY: It wasn't so much the refusal as the time element; I think I've already testified in regard to this. There was the time element and the exigencies, they thought then did not permit the rather prolonged attenuated individual determination of loyalty concerning the concentrations which already existed in the event of an attack on the west coast.

SENATOR MITCHELL: And basically on that, you are turning down the attitude of the FBI?

MR. McCLOY: Well, Mr. Hoover said he thought he could do it all right.

SENATOR MITCHELL: Could do it, not had done it?

MR. McCLOY: Pardon?

SENATOR MITCHELL: Could do it, not had done?

MR. McCLOY: No, it was not in place by that time, so you could have two weeks to do it in.

SENATOR MITCHELL: Thank you.

CHAIR BERNSTEIN: Father Drinan? And then I think we will have to conclude it.

FATHER DRINAN: Mr. McCloy, I'm not going to try to have you change your mind; I think you have made up your mind, except that I don't understand how it is consistent. You apparently approved of the 26,568 claims that were paid in the sum of $36.9 million. Those claims did not include the loss of anticipated profit or loss of earnings. You approved of those, and I don't understand why you would not say logically, let's reopen that statute for a limited period of time and let other Japanese apply. Thousands of Japanese say, and the whole country is saying that wrongs were done, and you admit that wrongs were done.

MR. McCLOY: No, no, no, I didn't.

FATHER DRINAN: Why was this $37 million given?

MR. McCLOY: I said that was a natural course of the whole operation, and that that was a very large compensation, a tremendous amount of money. I don't see why now, 40 years after the event we should take this particular element of our population and say we ought to add to the amounts that were paid to your renumeration of their distress in the war, but I didn't approve of that.

FATHER DRINAN: But you did. You don't think we ever should have given the $37 --

MR. McCLOY: No, I didn't say that.

FATHER DRINAN: I thought you said you went to the Hill and that you --

MR. McCLOY: I was in favor; I stated that I went up the the Hill and asked for legislation to --

FATHER DRINAN: But suppose we have 5,000 people who say we didn't hear about that, we didn't know it was available, we lost property, we lost other things, what is so terrible about reopening the statute and allowing these people who are similarly situated to those that were given compensation --

MR. McCLOY: They had full notice, the same notice that American civilians got, and I suggest that when you look at the whole situation that -- to be sure they were subjected to distress, but some of the people that fought --

FATHER DRINAN: But the consciousness of the country has grown, and Mr. Ennis said yesterday that over the last generation we feel as never before that compensation should be given to those people who are denied their freedom, and just the other Congress appropriated $3.1 million for the kids who on May Day came down here and were locked up for 24 hours, and they also appropriated $2.5 million for a class that was on the Capitol steps and they were detained.

So we're not making any reflection on you, we just say that the jurisprudence of the country has developed so that the $37 million at that time was given, and we want to give compensation to the others, and also to include personal suffering.

MR. McCLOY: This goes back to the war, Father, this goes back to the war, and 40 years after, you sit around here and we presume what they should have done to these people in 1948 when they were compensated adequately, why don't you say the people in Iwo Jima --

FATHER DRINAN: I assume you approve of the German reparations and in your high position you know all about them, and that they now have given $25 billion, they gave at least $1 billion every year to people who were in the concentration camps. What would you say if all of a sudden --

MR. McCLOY: I had nothing to do with that.

FATHER DRINAN: I know you approved of it. What would you say if 1,000 people came now and said we were so mixed up we never heard of these plans, and they want a claim? I think the justice should say the statutes should be open so that they could get what other similar situation --

MR. McCLOY: It's my money that you're going to give out, it's the taxpayer's money, but I don't think at this stage, this is long after the event, that there's really that kind of compensation --

FATHER DRINAN: One last thing, sir. You said, "The Japanese have hired a public relations person to create a case," and that's not so. The agitation for some years, as you know, is in all of the books here before me, and this has been bothering the conscience of America.

I thank you very much.

JUSTICE GOLDBERG: Well, first of all, I would like to make a little more elaborate introduction than has been made about our distinguished witness. Mr. McCloy is one of the most distinguished Americans, is also a phenomenal person at 87 years of age. To do what you have

been doing is just incomprehensible. I don't expect to be around that long, but if I am, to possess the powers of the mind which enabled you to sit here, which I think is quite extraordinary, and I second what Senator Brooke has said.

There is a misconception. I have known Mr. McCloy for many years, and he is a compassionate man, although I may disagree with his conception of what should be done. He is also a man of law. How many years is it, High Commissioner, that you have been practicing law?

MR. McCLOY: Since 1921.

JUSTICE GOLDBERG: Since 1921! That's a long time. I'm almost catching up to you, 1929.

Now, High Commissioner, it is overlooked that we are being pursuant to an act of Congress. We are not at large, a group of people who want to do good about our conception. Congress has passed a law that the President signed, and I want to read part of it: "The Congress finds that approximately 120,000 civilians were relocated and detained in internment camps," that's a finding of the Congress, which I think is ridiculous argument, they were not death camps, as you know from your own experience in Germany, but Congress says an internment camp, Executive Order 9066, and other associated actions of the Federal Government, approximately 1,000 alien, civilian, American citizens were relocated and in some cases detained in internment camps pursuant to directives of the United States military forces in World War II and other associated actions of the Federal Government.

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And this relates, I think, to the work of the Commission, because it relates, High Commissioner, to what you said after 40 years. No sufficient input has been made into the matters described in paragraphs 1 and 2. It is the purpose of this Act to establish a commission to: (1) review the facts and circumstances surrounding Executive Order 9066, and the impact of such Executive Order on American citizens and permanent resident aliens; (2) review directives of the United States military forces requiring relocation, and in some cases detention and internment, of American citizens including Aleut citizens and permanent resident aliens of Aleutian and Pribilof Islands; and (3) recommend appropriate remedies.

Now, since you are a man of law, we accepted appointment on this Commission, we have no alternative in good conscience to proceed as we are doing, otherwise we should resign. Congress passed a law signed by the President. Therefore we have this onerous -- not very pleasant task, I must tell you, you're quite right, that articles of the daily press, this Commission heard on the side, I won't add to what has been said. But everybody who comes here was invited to come from all sides, whatever their side may be. I want to repeat that.

Now, having said that, you are an experienced distinguished lawyer. Yesterday you and I had a conversation you said adversaries -- well, I guess we're all trained as lawyers in the adversary system. It's only by asking questions, sometimes questions we don't necessarily believe in, just like when I was on the Supreme Court, they elicit the truth. That's the essence of the adversary system.

I'm not asking for comments on that, I just wanted to point out this is the law, and we are asked to do it, to do this task, and any of us who do not desire to do this task ought to get out and hand in their resignation. I through of getting out, not because I'm not a supporter of the law, but because it is pretty arduous running to Alaska and Los Angeles and so on, and it is not a pleasant task for the great renumeration our generous government gives us.

Now in your testimony, and I'm sure you share with me the reaction there, and it is a remarkable fact after 40 years you can recall as much as you can, I can't remember what happened yesterday. And you made a statement, High Commissioner, that it was a supreme decision by the President not so by the executive order, but you probably haven't read it for a long time, and I'll read it: ". . .9066, whereas the successful prosecution of the war requires every possible protection against espionage and against the national defense premises and national defense utilities. Now therefore, by virtue of the authority vested in me as President of the United States and Commander in Chief of the Army and the Navy, I hereby authorize the Secretary of War and the Military Commanders, who we may from time to time designate, whenever he or any designated commander deems such action necessary or desirable to prescribe military areas."

Now, I'm sure you will agree with me, that therefore, the action that was taken in prescribing military areas and

giving General DeWitt authority, and doing what General DeWitt did, was a military action by military people not civilians, because even President Roosevelt did not directly say that the Japanese are Japanese. He delegated authority to the Secretary of War in his capacity, not only as President, but as Commander in Chief, to military commanders.

I just say that again so that the record is clear that the decision that was taken ultimately was a military decision, and that's clear from the the record.

Now, and here I'll ask you a question -- with the best of spirits. You mention that my beloved Chief Justice, with whom I had the great honor to serve, and the Attorney General, urged the evacuation, he did. In his autobiography, and I want to read a paragraph -- and he was a great man, I think one of the greatest men I think I ever had the opportunity to serve with, he said this --

MR. McCLOY: I served with him on the Warren Commission.

JUSTICE GOLDBERG: Yes, I know that. I urged him to take that assignment, and I thought he ought to do that as a public servant.

Now, he said this: "I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens; whenever I saw innocent children torn from home, school friends and congenial surroundings, I was conscious it was wrong to react so impulsively without positive

evidence of disloyalty, even though we felt we had a good motive in the security of our state. It demonstrates the cruelty of war when fear, get tough military psychology, propaganda and racial antagonism combine with one's responsibility for public security to produce such acts."

Now, knowing you, it is hard for me to believe that as sitting here as you do today, I understand what you said, we all say why did I enlist, I was outraged by Hitler, thought it was the most justifiable war in history -- that's why I enlisted. Sitting here now -- and we learn from experience -- as Earl Warren, wouldn't you agree with that statement?

MR. McCLOY: I don't think I do and I have given it a great deal of thought over the years, because I wasn't the center of this thing, and considering the situation at the time, we had an active throught on this, I gather, I was familiar with that statement in his autobiography. But it's hard for me, considering his quality, his strength, his vigor, I share your admiration for him because I worked very closely with him on the Warren Commission, but I remember his importunities and how he felt at that time, and having taken that decision and put it into the hands of the President of the United States to act under it, he did.

Unfortunately we don't have President Roosevelt around, who might say the same thing, but he didn't say that then, and I think we ought to consider all of the distress that was brought to us by reason of the war, that this was a thing we ought to let stand. I'm a little worried about the

backlash of this thing. I think that -- like Senator Hayakawa, I think you're better off to let this thing go as it is, it has really gone about a revolution in our whole attitude --

JUSTICE GOLDBERG: But High Commissioner, I know what you did in Germany for the victims of the Holocaust, and it was a very arguable proposition; many Jewish people, which I'm proud to be one, thought for two reasons there should be no compensation award; (1) that how could you compensate for great enormity; and (2) there would be a backlash of antisemitism. And you must have considered in your high office that, but you supported that, and reparations were made.

So, and there was no backlash, there was an understanding that when you do an injustice, why you should try to do some measure, how could you compensate for 6 million Jews being killed; you couldn't, but that was the argument about it, but yet I think you did the wise thing.

Now, I was wrong, because I was against that initially, and you were right.

Now, I don't believe you have done yourself justice, I have read the record. It appears from the record that Secretary Stimson -- I share your admiration for that great American -- the Attorney General, all initially felt that this was unconstitutional, it appears in many of the documents.

MR. McCLOY: Was unconstitutional?

JUSTICE GOLDBERG: Yes, you were under the documents that are available -- I'll later show them to you -- you are quoted, as well as Stimson and Biddle and certainly of saying

this is wrong, unconstitutional; but then something happened. That is the question I want to ask.

Assume I'm correct from reading the documents, most of them, one of them is used in honor of a man of Colonel Bendetsen's memoirs, and Secretary Stimson, Secretary of State, and most everybody, when this was first suggested, it was almost the general feeling, oh, no, you can't move American citizens regardless of their racial origins.

But then it appears on itself -- and this is my question -- it appears also that then there was a clamor from the West Coast. General DeWitt says the American Legion, the California Committee, and the Native Sons and Daughters of the Golden West, the Western Growers Protective Association, the California Farm Bureau Federation, the Chamber of Commerce and newspapers, not only here, but the liberal Los Angeles Daily News clamored for evacuation, Walter Lippmann clamored for evacuation, Westbrook Pegler clamored for evacuation, and as late as February 9th, it would appear that there was no consensus by all involved that that ought to be done; and then a congressional delegation -- and this is not a question of liberal and conservative, but one of the men who is most liberal, said he would put every Jap under armed guard in this country -- that was a liberal democratic congressman.

So there was great pressure. Well, that happens in our democracy, and so I would like to put the question to you this way. In the evolution of the evacuation, what

is reported by General DeWitt who later says he supported the evacuation and blamed himself for not -- and he said urging Stimson to finally make the recommendation.

Was not the sequence of events about that clamor for the west coast, the California legislature, the congressional delegation, Walter Lippmann, all kinds of people, liberal newspapers, conservative ones, and since we are a democracy, wasn't there a reaction to that which -- I've served in public life and we have to be conscience of what we think is the feeling of people. Wasn't there a reaction, and wasn't that in your opinion -- I'm not including Moses, but recognizing this situation existed, congressional delegations moving and everybody saying that, because it appeared that General DeWitt himself was against evacuation at that time.

MR. McCLOY: He could not do it for a while -- no, I don't follow that. I have a feeling that these men who made that decision thought of it in a thoroughly objective form. They decided whether they thought it was constitutional or whether it wasn't, but under the circumstances it was necessary. Stimson would not have hesitated one minute, because he's a very compassionate man, the more he was opposed to it the more strongly and outwardly he would get. He was not going to yield from any pressure from Earl Warren or anybody else.

What so I think about this? The President was coming to him and saying, Henry, what do you think about this? What do you think we ought to do? I'm perfectly clear about it.

JUSTICE GOLDBERG: Well, I certainly share your admiration, but I think if I may make a comment, I think it is unworldly in our political -- no man can be that virtuous.

MR. McCLOY: Well, maybe so, I used to think -- to me he was a very fine figure, but I disagreed with him a lot. I disagreed with Mr. Stimson when he was in favor of dropping the bomb.

JUSTICE GOLDBERG: I want to finally say one thing. We go to President Roosevelt, and I revere him, but the other elements of racism here has entered, and that is a thing which maybe none of us is sure of it.

This is from Biddle's memo, was asked about the problem of evacuating all the Germans, Italians, and those were first, and Japanese were mentioned after the west coast, you may not recall. Biddle wrote in his diary, he said, "Germans are very dangerous, lock them all up; Italians are opera singers." That is kind of racism there. We are not free from that, and the reason I mention that is that when I look at the list of organizations that were advocating this action, it is inescapable that if the intent, and you have to distinguish between intent and effect, the effect of what was done, and I accept the fact of what was done was a racist act, we picked out a group of Americans and interned them. Surely they were on the west coast, German Americans were on the east coast (inaudible), and for the military standpoint this showed that actual sabotage was committed on the east coast, not on the west coast, isn't that so?

MR. McCLOY: I don't think -- I have to separate my world wars; I was in two world wars, and I was very heavily involved in - I don't recall any acts of sabotage ...

JUSTICE GOLDBERG: (inaudible)

MR. McCLOY: That is right.

JUSTICE GOLDBERG: I was in OSS and people (inaudible)

Thank your very much, you have been absolutely heroic in submitting to these questions.

CHAIR BERNSTEIN: Congressman Lungren wanted to mention just one more thing.

VICE CHAIR LUNGREN: I won't take very long, but I just thought it might be interesting to recite an entry from your diary on Tuesday, February 17th, which preceded by two days the President's Executive Order, and it is AM 8:55, and it says, "Telephoned General Gullion regarding Lt. Col. Bendetsen's return from the west coast, regarding yesterday's meeting with the Italians you had met the day before about locating some elderly Italian Americans in a restricted area, and regarding Judge Patterson's vehemence that aliens should be moved out with no half measures used on them in spite of the fact that GHQ and the staff thought such a plan would involve too many troops. Danger too for the reason of yielding to local pressures which demand unintelligent action, it is a problem but I'm afraid no easy solution or one which will not be criticized whatever way we move. It is clear, however, we must act with full responsibility and dispatch."

Does that in general sum up your feelings at that time as they appeared?

MR. McCLOY: Is that in my diary?

VICE CHAIR LUNGREN: Yes.

MR. McCLOY: I didn't know Bob Patterson was as vehement. He was pretty tough, he was a circuit court judge with great distinction. But say that again what he said there.

VICE CHAIR LUNGREN: Judge Patterson's vehemence that aliens should be moved out with no half measures used on them.

MR. McCLOY: He was very much concerned about our expedition. He was thinking of the timing; he was very worried about attack, as a number of us were. He was always -- he felt once you made a decision, carry it out.

VICE CHAIR LUNGREN: But it indicates further you thought there was a danger in yielding to local pressures.

MR. McCLOY: That is right, I was. I was very sympathetic to the moving here, the uprooting and the distress that that would cause. It was a dilemma and it was forced on the War Department because the War Department was the only one that could really deal logistically with this problem, and they did deal with it in accordance with the decisions of the Commander in Chief, and it was dealt with, I think, with great compassion and sympathy and consideration. I believe that it was very wisely dealt with in view of the pressures that were coming, the dangers, and it was the War Department that brought up the question of dangers to the civilian population, it wasn't the

President of the United States, he said it's all military necessity. Mr. Stimson was the man.

JUSTICE GOLDBERG: You know, I didn't mention a figure. It's very interesting because there are facts that come to light; it has come to light that public opinion study that shows that only 14 percent of California favored internment of Japanese American citizens, and as I said earlier --

MR. McCLOY: When was that?

JUSTICE GOLDBERG: In Biddle's book.

MR. McCLOY: As of what time?

JUSTICE GOLDBERG: As of what time? And you know and I know that the court said the obligation of government to protect us from attacks.

MR. McCLOY: It was not practical, it was not practical for us to for the police there, but we considered that.

Well, is that all?

CHAIR BERNSTEIN: I believe it is. Thank you very much. We would all agree with Justice Goldberg, you have indeed been heroic, and we thank you for coming and for putting up with us for a long time.

MR. McCLOY: If there's anything I can do from here out -- I think I've given you all I possibly can, but if you want to get in touch with me, Mr. Macbeth can.

CHAIR BERNSTEIN: Thank you again.

We will stand in recess for one hour. I apologize to the witnesses from this morning that we did not get to.

We will take them up promptly this afternoon. We will recess for one hour.

(Whereupon, at 1:15 p.m. the luncheon recess was taken.)

408-253 (812)

AFTERNOON SESSION

2:30 P.M.

VICE CHAIR LUNGREN: We will come to order, please, and for the first witness we have this afternoon, we ask Mr. Calvert Dedrick to please come forward.

Is Mr. Dedrick present?

(no reply)

Mr. Dedrick has been here since 9:00 yesterday morning waiting to testify.

CHAIR BERNSTEIN: That was not Mr. Dedrick's fault because we didn't give him very much notice, but in view of it, Mr. Glick, would you mind coming forward?

This is Mr. Philip Glick, former Solicitor, War Relocation Authority.

I'm going to turn the proceedings over to you, counsel. Mr. Macbeth?

MR. MACBETH: I would like to introduce a statement and colloquy which you have on the general operation of the War Relocation Authority, and particularly in relation to the detention problems generally back in 1950, before the Committee on Internal Security at the House of Representatives. We did that rather than simply to have a full statement to you available on a quick basis and allow us to ask you to give a brief summary of the operation of the War Relocation Authority, particularly in relationship to the leave regulations, how they operated and so on, and to move from there with some brief questions.

Will you proceed in that manner?

TESTIMONY OF PHILIP M. GLICK

MR. GLICK: Surely. The President made it very clear to Milton Eisenhower, who was the first director of the War Relocation authority, that WRA was established to help look after the evacuees from the west coast.

The decision to evacuate had been a very difficult one, and the President was very much concerned that the whole position and intention of the United States could be misunderstood. He also felt that they very fact of evacuation would serve to tar the evacuees, it would be inevitable that people would ask themselves why were they evacuated? If they weren't dangerous, surely they would not have been evacuated, and also if they were dangerous on the west coast of the United States, is there some danger to my state, if they are relocated here?

And so WRA's responsibility was to look after the evacuees, assist them. Right from the very beginning, relocation of the evacuees, rather than detention for the duration of the war, had been considered a major alternative.

As a matter of fact, the first step that was taken on the west coast was not evacuation, but the announcement by the Army that persons of Japanese ancestry living in so-called Military Area Number 1, were encouraged to leave voluntarily and that they would be given every assistance necessary for that purpose.

I think that -- I know that that period was for at least a month, and maybe even longer, but there was only a very

small number who left. I recall reading somewhere recently, not while I was in WRA, that some 5,000 people informed the Army during that period that they were moving. Only a small number of them did leave, and most of those who did leave moved merely to the eastern part of the state in which they had been living; California, Washington, or Oregon.

At about this time the military and civilian advisers of the President had joined in recommending total evacuation of all Americans of Japanese ancestry living on the west coast; and the President wanted very much that the evacuees be treated civilly and humanely -- this I heard from Milton Eisenhower immediately after his appointment to the direction of WRA. I heard it again repeated to me by Dillon Myer, who took over as director after about three months when Milton Eisenhower was appointed deputy in the Office of War Information.

WRA felt from the beginning therefore that -- I remember at the staff meetings we used this kind of phrase; "WRA is responsible for serving as an ameliorating influence between the American people and the evacuees." We had had memos available to us, of course, by the intelligence agencies of the government, primarily the FBI and Naval Intelligence, about the rumors that had been circulating on the west coast and some information about popular attitudes.

We were told there was a danger to the evacuees, that is for those who became evacuees, and we were told that there would be difficulties all over the country if we proceeded with what we had been talking about as the relocation program.

WRA came into existence after the evacuation itself was completed. None of the staff, no one on the staff of the WRA, thereafter was consulted or knew anything about the proposed evacuation before the decision was made, and as you know a very short time elapsed between the President's order to conduct the evacuation and the order establishing the War Relocation Authority.

Shortly after WRA accumulated enough general information to feel that it could formulate its program, it decided that its immediate task -- and it was a very, very difficult task -- to make the relocation centers as habitable, as endurable, even as comfortable as we possibly could. And we also set three goals for ourselves, and these goals, three or four, I don't know how many there were exactly, but these goals, we felt, were to define WRA's activity.

First, we wanted to bring occupations into the centers. We set up an industry and handicrafts division that attempted to bring various industrial concerns into the relocation centers to employ the evacuees. We set up an agricultural division to help make evacuees available for agricultural labor, and there was a tremendous shortage of agricultural labor.

Another goal we set for ourselves was this: we knew that persons of Japanese ancestry, who had enlisted in the Armed Services, and some of whom had been drafted into the Armed Services, about the time of the evacuation were informed

by the military they were no longer wanted in uniform, and were released or discharged.

We felt that the problems raised by the fact of evacuation could only be intensified by information that this is what had happened to persons of Japanese ancestry already in uniform. And so another goal that we set for ourselves was to persuade the military to re-extend military service to the draftees they had dismissed.

A little later we formulated another notion. We said if the government of the United States could find this dramatic gesture open to it, this could go a long way toward countering the influence created by the sheer fact of the evacuation, followed by retention in relocation centers surrounded by barbed wire, and manned at four corners by posts such as there are in every prison; and that was if the Army could decide after the immediate events that triggered the evacuation had subsided, that it could reopen the excluded area and allow the evacuees to return to their homes, and if this could be published widely as an act that the Army of the United States, the author of the evacuation, was now carrying out, that this would have an enormous impact. And Dillon Myer in particular undertook extensive discussions with many people in the military services, and particularly with civilian officers, to persuade them this should be done.

And John J. McCloy was among the leaders in the Defense Department, then the Department of the Army and Department of the Navy and so on, that were sympathetic with us.

They said to us you're right, we are interested, we will try to collaborate. By no means can we undertake that now, they said -- that was still in 1942, late in '42 still; but they said come to us again; don't let us forget about it, I think one of them said to us.

And the the final goal was, we must close the relocation centers and get the evacuees relocated throughout the United States as soon as we could. This is the way we interpreted what the President really meant when he said, "I want a civilian agency helping the evacuees and being as humane during the entire operation as we possibly can be."

We decided we wanted to have a relocation program that would get some evacuees streaming out of the centers immediately, and all of them relocated as rapidly as possible, and every relocation center closed well before the war was over. We said this partly because several of us, Dillon Myer himself and myself, had worked in the Department of Agriculture, and the Department of Interior for some time before WRA was established -- and we said let's not saddle the American people with another set of Indian reservations, and we saw how easy it would be for these relocation centers to grow into that.

And as a matter of fact, by the end of the second year of WRA, one of the things we were most emphatically concerned about in WRA about that danger of additional Indian reservations. In that, WRA succeeded. All the centers were closed down in due course by WRA, and the evacuees themselves succeeded by their own

initiatives and efforts to make the relocation centers as livable as possible. These men and women had established reputations as excellent farmers and gardeners. They were connected to farming and agricultural operations within the centers, and built gardens around every house in the relocation center. It was sometimes difficult to believe if you did not shake yourself, you were really in a community that was guarded by armed soldiers day and night with flood lights burning all night long.

I heard laughter this morning when Mr. McCloy, said that as a matter of fact the relocation experience had some virtues to it, had some advantages to it for the evacuees. I can understand the laughter but, you know, this is true.

In the relocation centers the evacuees found at first a place where they felt safe, they felt they were understood, they felt the administrators were their friends; and then shortly after that they found that a constant drumbeat of pressure was coming on them from WRA, telling them, "Don't stay in the center; you will deteriorate here; this is not a place for democratic citizens to realize their own capacity. Get out as soon as you can."

And we said first to all those who were farmers or had agricultural experience -- and this was a great majority of them -- we said there is a great shortage of agricultural labor in the United States. The farmers in many of these states who speak of you now as "those Japs," will fall on you with affection and interest if they learn that you are willing to

help work on their farm.

And so we urged them to leave the centers for farm work. We set up a program we called Agricultural Labor, and we said all you have to do is ask for the right to leave the center and go out on agricultural works projects and we will examine you. We've already got all the information that the FBI and Naval Intelligence has developed; we know how few of you are disloyal to the United States. And we'll be able to sponsor you and help you get these jobs and help transport you to work and bring you back to the center if there is no accommodation for you on the farms. And we got a large number to go out at a time when America needed additional agricultural labor.

And also out of this grew, the general leave regulations of the War Relocation Authority. I have always been proud as a lawyer and as a citizen of the United States of my personal part in drafting those regulations. I don't think that's anything we need to defend. I think that is something we can boast about.

This was our method of trying to get the evacuees out of the centers as soon as we could. Before the end of '42 we abolished the Industrial division and said we don't want any kind of work to be provided to the evacuees inside the centers except two: (1) we need people as secretaries and we need people to help run the centers, and we want the evacuees to take these jobs so far as they have the capacity to do it. And secondly, work on nearby places outside the centers on work relief.

Dr. Alexander Meiklejohn, a great educator, a great civil rights publicist, had been appointed by Roger Baldwin, then the head of the American Civil Liberties Union, to serve as the conscience and responsibility of the ACLU in the detention of American citizens and even non-citizens, but Japanese, or Americans of Japanese ancestry, who resided in the United States and were now detained and maintained in these relocation centers.

And, as their conscience, Dr. Meiklejohn came to see me several times about the proposed leave regulations, and he said, "May I see them while they're still in draft?" And I said, "Of course."

I showed them to him and I remember vividly where he said, "I've studied your draft; I have a memorandum for you suggesting and requesting a number of changes," but he said, "I have one request to make of you in particular." He said, "Don't issue these leave regulations as an act of charity or generosity on the part of the WRA. Say in your regulations that every resident of a relocation center has, as a matter of right, the right to leave the center, provided he satisfies these conditions that you wish to impose:

"(1) that he tell you where he is going;

"(2) that he has a job or other apparent means of support if he gets out, so he won't run into any difficulty or trouble; and

"(3) that he wait until you tell him after he has told you where he wants to go, whether that area is an area where the WRA has already created a place, a willingness to accept relocated evacuees."

He said, "Will you say in your leave regulations that any evacuee who satisfies these three requirements may leave as a matter of right because he wants to?" And I said, "Of course." Then I went to Dillon Myer, and he said, "That's not a problem." And of course the leave regulations said right from the very first day that the leave permit was to be issued as a matter of right.

Now our goals then included also closing the relocation centers, if possible even before the war was over; of reopening the exclusion area as soon as militarily possible; of restoring to military service the draftees and enlistees who had been rejected; and extending the draft to the eligible sons of the evacuees. These became the primary goals of WRA.

MR. MACBETH: Could we focus on the leave regulations? You listed three items that were required before leave would be granted.

You did not mention any kind of security check or loyalty check, and there certainly is a good deal in the literature to indicate that that was another requirement that had to come before the WRA, for each evacuee, is that currect?

MR. GLICK: Yes, the leave regulations did not say that it was a condition of one's getting the permit, that we be satisfied as to his loyalty, but it was

understood within WRA. It was a part of the written program that we submitted to the Congress, and the Bureau of the Budget for government approval. We got the approval of the White House staff that we would issue leave permits under these regulations only to persons as to whom, on the basis of our study of their file, we were satisfied that they did not represent any danger to the internal security of the United States.

MR. MACBETH: There has been considerable testimony to the effect that the War Department, once the evacuees left the Pacific Coast itself, had no further interest in where they went or what they did.

Now is that true as well as far as the security and loyalty chapter is concerned, particularly at the beginning of the program in the summer of 1942, as well as the other conditions?

MR. GLICK: Yes, Mr. Macbeth, that's true.

First, the executive order directing the Department of the Army to effectuate the evacuation said nothing about any Army responsibility thereafter; and therefore the Army had no authorization document to point to for any further contact with the evacuees.

Secondly, the Executive Order establishing WRA said that it shall be responsible for maintaining, assisting and supervising the evacuees; therefore, the whole of that authority rested not in the Army, but in WRA, and, in fact, we never submitted our leave regulations to the Army for review.

We published them in the Federal Register; we knew perfectly well that they would -- I'm not even sure that there was a Federal Register at that time, but we published it anyway in whatever --

MR. MACBETH: They were published.

MR. GLICK: Yes, there was, of course -- and we received no comment or suggestions at any time concerning the leave regulations from the Army to my recollection, and I served on the staff of WRA, and its legal staff, for three or four years.

MR. MACBETH: How about the Department of Justice?

MR. GLICK: We worked very closely with the Department of Justice and submitted the proposed leave regulations to the Department of Justice. They may have, almost certainly would have, submitted recommendations and suggestions for changes and wording here and there. I recall none of them. I think I would recall if there had ever been any important issue between Justice and WRA about them. I recall none such.

MR. MACBETH: Why did WRA choose to put out the leave regulations in the form of mandatory standards that had to be met as opposed to saying these are things they thought would be in the best interest of the evacuees, but the evacuees were nevertheless free to leave the relocation center if they so chose?

MR. GLICK: I thought what you just summarized was actually the theory and expression.

MR. MACBETH: But the evacuee was actually not free, he couldn't say regardless whether I have a job, regardless or whether I'm going to tell you where I'm going to live or what my security status is, I want to go to Chicago.

MR. GLICK: No, that kind of freedom did not exist in the relocation center until we terminated the leave regulation and announced the policy of closing the relocation centers.

The reason it did not was this: WRA was the agency that the President had chosen to carry out his responsibilities in connection with this program. There was an exclusion areas. We were the only ones authorized to supervise and assist the evacuees. It was our responsibility to see to it that we didn't facilitate any attempt to violate the boundaries of the exclusion areas.

Secondly, we knew that there was a considerable cloud of suspicion over the evacuees. Aside from the spirits of racism on the west coast, a liberal amount of suspicion was spread out over the country. That led to the evacuation itself. And aside from all of that, I think I said earlier, the mere fact of evacuation had tagged these people dangerous or suspicious; and President who everybody regard as a liberal defender of civil rights had ordered the evacuation; and everybody knew about Attorney General Biddle's position as a civil libertarian, and he had approved the evacuation and the detention.

Further when the leave regulations were first published, the attack on Pearl Harbor was only about four or

five months old. The trauma of the attack and its damage to our military strength still existed as a general attitude all over the country. A great many people were nervous about receiving the evacuees in their communities. To serve as a mediator between the American people and the evacuees, since WRA defined its function in those terms, required that WRA consider not only the needs and emotions and attitudes and traumas of the evacuated people, but also the opinion of Americans all over the country.

We heard constantly from the governors, particularly from the mid-western and western states.

We heard from senators and congressmen. We knew generally what the opinion and feeling of the people of the United States was. It was our considered opinion -- and by the way, this is all explained in detail in the final report of all of this of the War Relocation Authority, which I'm sure is available to the Commission. Almost everything I'm saying now is documented and footnoted in that report.

We knew then, at the time the evacuation itself was completed, that if we had simply permitted the evacuees, in effect, to leave in a non-regulated helter-skelter stream all over the United States, there would be serious danger of violence and turmoil.

Now the danger of violence and turmoil is never an adequate justification for restraining any individual of his freedom.

MR. MACBETH: Well, I must say you put it squarely. What is the justification?

MR. GLICK: The adequate justification was this: The President had ordered the evacuation, the evacuation had been completed. WRA was responsible for the welfare of 112,000 evacuated people, men, women and children, citizens and aliens; we felt that if we -- no, let me interject just one point here.

The President of the United States and the government of the United States had the right, when its responsible officers had determined that the evacuation was necessary and valid, and that WRA was now to function as a defender and assistant of the evacuees; the President and the government had the right, particularly in the case of the lawyers doing legal work at WRA, they had the right that its lawyers should enforce the decision of the President until the courts had had opportunity to pass upon the questions of constitutionality.

One of the very first questions that Milton Eisenhower, as director of WRA, put to me was is the evacuation constitutional? He said I know we have nothing to do with the evacuation, but is the evacuation constitutional, what do you think the courts will say in time? And then he asked is detention constitutional?

I pleaded for the time to do a some careful research," and I said, "This will be our major litigation task and I will be happy to try to answer all these questions promptly."

Then I issued five or six opinions to the Director of WRA, which were marked confidential when first issued. Later, we removed the confidential label from the opinions and were available to those who needed to read them -- I've talked to you about it, Mr. Macbeth.

In those opinions I said that, at first, having evacuated them, certainly in time of war, the President had the power to say to the evacuees you must stay in the relocation centers until we have a chance to find out something about the evacuees. We want to see if we can distinguish the ones people have been referring to as potentially dangerous; the unidentifiable minority.

And so we felt that WRA had the power to detain the evacuees during such a period of sorting. I'm confident that had the Supreme Court chosen to pass on the constitutionality of such detention -- as you recall they did not pass upon it; they disposed of the case without answering that constitutional question the court would have held the United States had the power to detain pending sorting.

Secondly, we said in those opinions that, knowing what information we had about each of them, WRA had the right to say to the evacuees, you cannot go back to the excluded area because the Army says you can't, and we advise you to let us help you get a job in an area where local opinion will permit evacuees to settle. Our people were already hard at work to select those areas, and most of our staff was working at the relocation centers on the re-employment program.

We said to the evacuees we advise you to apply for a permit to leave the center, and then we will give you a one-way transportation ticket and a cash grant to help you relocate; and if you get into trouble, get in touch with us.

MR. MACBETH: Where did you find the source of authority for the detention side of the program in 9066, or in 9102?

MR. GLICK: Not at all in Executive Order 9066. WRA never found any authority for its program in that Executive Order. We found it in Executive Order 9102, and as you know -- well, first of all, in the Korematsu case, the Supreme Court decided that this evacuation in time of war was constitutional, even though it led to a detention. This was dissented from by at least two justices. So much light the Supreme Court had given the WRA in the Korematsu opinion.

Then when the Mitsuye Endo case came along, the court decided that Mitsuye Endo should be permitted to leave the center, because WRA said, and the Department of Justice in its brief in the Supreme Court had said we have not the slightest doubt about the loyalty and patriotism of Mitsuye Endo. We have urged her for some two years to leave the relocation center. Let me interject this: When I first read the file on the Mitsuye Endo case, when she filed suit, I said, "To detain this young woman is absurd. There's something wrong with this; has the project attorney talk to her?" If ever I saw an American who was intelligent enough and patriotic enough to relocate immediately at will, she was; and then word came back that the Center Director and the Project Attorney were satisfied after talking to her and that she and her lawyers were operating with calm intelligence. They had decided she was the perfect plaintiff in a suit to challenge the constitutionality of detention. So I issued written instructions to the Project Attorney, and Mr. Myer sent a similar letter to the Project director, that they were to take no steps whatever to interfere with the prosecution of the Mitsuye Endo case.

You see we were very much concerned that even our efforts in persuading her to leave, to give her a permit after she filed suit, could be misinterpreted as a move to checkmate or check the evacuees at every step if they tried to short-circuit the detention process.

Mr. MACBETH: I must say I still find some trouble in understanding exactly what the interest of WRA remained when with ceded loyalty of the petitioner in having any kind of test of the other parts of the leave regulation, apart from wanting perhaps to know what the legal answer was. Why did WRA want to continue with those regulation?

MR. GLICK: We had announced to the Congress and to the other officers of the federal government that had any involvement here, and to the public, that WRA would administer the leave program in such a way that no community in the United States would need be concerned to accept them. This was part of our effort to build community acceptance of the evacuees. If we had repealed our procedure for determining which evacuees could leave the Centers without danger to the war effort, we would, of course, have had to announce we had done so. And not would have greatly weakened the very effort we were making to renew the support of the American people for our effort to fill and relocate the evacuees.

MR. MACBETH: Let me go on to a somewhat different aspect of it. One thing that obviously happened with what you call the sorting process between those who were loyal and and those who were found to be disloyal, but this took an enormous amount of time. This did not turn out to be anything

that the government appeared to be capable of reaching a decision with any speed at all.

Could you describe what went on in that process that required a couple of years in very many cases to make these determinations?

MR. GLICK: Under the leave regulations, the first step was that any resident in the relocation center would have to file an application for a permit to leave the center. There were various types of applications for work leave, application for permanent leave, et cetera.

Secondly, that application was reviewed by the project director, and immediately sent to Washington with his comments and recommendations.

By this time we had established a set of files on all the evacuees in all of the centers. It contained, as I may have said, a summary of the information contained in the FBI report, and a summary contained in the Naval Intelligence Report. The FBI assured us that any time they had something in a file on an evacuee that they were not sending to us, they would alert us. Naval Intelligence said they could not follow that step. In no case, as I recall, did the FBI later get in touch with us, with reference to a particular evacuee to say they had information they must refuse to make available to us. Our file therefore enabled us to know that the FBI knew everything we knew

Further, our files now contained everything that the Naval Intelligence considered derogatory about the evacuee on

the question of loyalty, vis-a-vis the United States or Japan, and constituting any grounds for suspecting a willingness and capacity to commit espionage or sabotage.

And may I interject here too, the lawyers on my staff had endless amusement with what we found in those files. I would like, if it were possible, to publish the contents of all of those files. Few things would be so eloquent a testimonial to the loyalty and patriotism to the United States of the Japanese American community in the western states -- that is, everyone we had in a relocation center. Remember, there were a great many Japanese Americans not on the west coast at all, located in a number of states in the United States.

Well, we would then examine these files. This would satisfy any question of national security and then we looked, in the meantime in every place, Chicago, Salt Lake City, every place more or less near the agricultural areas, near the areas shortages of employees. We had already established programs for building community acceptance, and were getting reports from our field officers, in which they would in effect say, I can accept as many evacuees as you can send to my area, and so on and so forth, we would then match that with the area to which the individual wanted to go.

MR. MACBETH: But my question was, especially in light of what you just said about what the dossiers and files looked like, why did it take this incredible period of time to get through them? It sounds like you, in fact, have rarely

had any derogatory information which you considered of much probative value.

MR. GLICK: But we had a great many cases many indications that there were no jobs or no community acceptance available in this particular area to which the evacuee wanted to go. We would then inform the evacuee to let us to help him get a job somewhere else. More than 100,000 evacuees were in the relocation centers.

I'm ready to defend the speed with which this process operated. I don't recall whether we had good or bad records on speed in responding to applications, and I never really heard that we were very slow in operating that.

MR. MACBETH: Well, I don't know if it is worth it, but there is a very substantial number of loyalty reviews that seem to have taken upwards of two years to get through; I'm leaving aside the problem of finding a job. The period seems to have taken a very long time.

Let me conclude by turning to the loyalty questionnaire program which became part of the loyalty review starting in the early months of 1943. I would like you in just a few words to tell us how that program came into being, and the likelihood of the fact of distinguishing between loyalty and disloyalty by simply asking you -- this was done in a rather crude way, and the Questions 27 and 28 as to whether or not they had allegiance to this country or allegiance to Japan.

MR. GLICK: I have never been able to find out who prepared -- who in the Federal Government -- prepared Questions 27 and 28.

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The questionnaires had already been distributed into the relocation centers, I believe, before the WRA Washington Office became aware of them

MR. MACBETH: We will take that as given that obviously --

MR. GLICK: I hesitate to make sweeping affirmative or negative statements because maybe my memory is at fault. I've asked Mr. Myer, I've asked the man in charge of our Relocation Office for most of its existence, and none of them know.

At a certain stage, early in 1942, the summer of '42, or earlier, we received in the Washington office of WRA, a copy of a questionnaire which we were told had been made available to all the relocation centers, and my recollection was that the Justice Department had distributed it, and that I was angry with the Justice Department for not having cleared this in advance, or at least having discussed it with us in advance.

But I have been told since that the Justice Department denies they prepared the questionnaire. The people who then were representing the Justice Department on the WRA program were working very closely with us, and I know their two principal lawyers, Mr. Burling and Mr. Ennis, and I will take their word for it, if they say they did not have anything to do with it, so I don't know who prepared it.

We were dismayed when we saw it. Mr. Myer telephoned the Justice Department, and I don't know who else; and we objected and said this is a terrible mistake. What the questionnaire did was to ask each person to give information,

about himself, his background, his education, his employment, interests, etc., that this would be considered in connection with any application for leave he might make.

Then, I don't remember the exact wording of the questions any longer, but in effect, as I recall, they said, "Would you be willing to defend the United States in the present war? Would you be willing to defend Japan in the present war? Are you loyal to the United States? Are you loyal to Japan and are you willing to renounce allegiance to Japan: It was all an outline to be filled in with check marks, or yesses or nos.

Well, when we saw it we said opinions in the centers are in great turmoil; this is bound to do more harm than good. We didn't ask for this; we didn't want this. We knew it would interfere with our prosecution of the leave program, and we were told the questions and the document cannot be withdrawn.

Now you see, I cannot know, as an individual, that I was told all that even WRA knew. But whatever we learned, it certainly is in the Archives, as this Commission can ascertain. But, in any event, we were not able to stop the questionnaire.

Very soon we learned that Questions 27 and 28 were being referred to as "the loyalty oath" in the relocation centers -- I don't blame them for labeling it as a loyalty oath. I would have labeled it worse than that if I had been a detainee. And we knew that the mothers of most of the evacuee boys didn't want them to go into the Army; they didn't want them to go back into uniform if they had already been expelled or

didn't want them to be drafted. They knew the WRA was trying to re-extend the draft; they held that against WRA, and undoubtedly those mothers may very well have felt on the basis of these questionnaires that the Army was going to decide whether to redraft them or readmit them, etc., and word spread through the relocations that if you wanted to maintain such freedom as you still have left, etc., don't fill that in.

Anyway, a certain number, several thousand people, answered Questions 27 and 28 in such a way as to raise questions about their loyalty, and this is the worst thing in most of the files on the evacuees; the worst fact reported in the file to raise any questions at all about security.

I'm not sure I've answered your question.

MR. MACBETH: Well, I think you have come reasonably close. Let me put one more to you.

Do you think realistically, once you have people within the camps as evacuees, that there was any way you could tell whether they were loyal or disloyal except by taking some look at what happened and what their activity had been before they entered the camp? If the government takes a step in obtaining people in this fashion, don't you put yourself in a situation where through the combination of forces brought to bear on people, you never again would really get any kind of clear notion where they stand on something like that?

MR. GLICK: I agree with what you have said. There

was no really satisfactory way. There was no way by which one could reasonably decide that he or she had the data available to make a responsible judgment as to the loyalty of any of the evacuees. We soon acquired an overwhelming conviction in WRA, accumulated as an agency from all its employees, that these people were as loyal Americans as we are, and we would have liked to believe that if subjected to the kind of trauma and threat and rejection to which these people had been subjected, that we would have responded as well.

You know, again and again, the civil libertarians and others came to me and said, why don't you tell the evacuees to sue the government and get a court decision, and this will resolve the issue entirely. Tell us why you are proceeding so cautiously under the leave regulations. But you would not have to be so cautious if you had a court opinion.

Well, as lawyer for the WRA, I could certainly not go to the evacuees and say why don't you file suit against us? But I did keep repeating in public meetings in all the relocation centers, and in written documents that we sent to the relocation centers, my own favorite formula. I said, in effect, "WRA cannot release evacuees except under the relocation procedures until an appropriate court of the United States rules on the constitutionality of the detention under the leave regulations. That far I went, fearing that I was subject to criticism for going that far. In my judgment it was my duty to go that far; in any event, I went that far, and this much I said.

You know, even later, and this was a vindication of our earlier judgment when we felt that the relocation program had pretty well run its course. We had relocated by then a majority of the people living in the centers. Most of the people we thought ought to get out had gotten out. Then we, the WRA, announced a policy that it would shortly close all of the relocation centers, and that in any event, the last of the relocation centers would be closed on the last day of the war, and a strong criticism of the unkindness of WRA developed all over the country. The American Civil Liberties Union deserted us on this issue, and they opposed WRA's decision to close the relocation centers.

I don't know who from that group spoke to Mrs. Eleanor Roosevelt, to our dismay, and she was one of our principal mainstays in defending and protecting us in our activities earlier and our goal. Mrs. Roosevelt wrote a letter to the New York Times in which she said it is not fair now that we have uprooted these people, taken them away from their homes and businesses and farms, labeled them in the eyes of the American people, and then kept them in relocation centers behind barbed wire for all this time. It isn't fair for us to close the centers to any who wanted to stay.

Well, Dillon Myer and I had a glorious occasion with Mrs. Roosevelt at the relocation center in Arizona, and it was a glorious day for the center in American history. The women and girls of the center, as soon as they heard that Mrs. Roosevelt would

be there, had organized informal activities. They poured out to greet Mrs. Roosevelt, and she gave us her schedule as to where she wanted to go. And she said, "I want to lay down one condition. After we have had our session, I want you," -- turning to Mr. Myer, she said, "I want you and any other officer or employee or WRA who may be in the group at the time to stay away from me and the evacuees. I want to have as much time as these people want to have with me. . .absolutely on my own. I don't want anybody from WRA present." And I remember Mr. Myer saying, "Mrs. Roosevelt, we knew you would say that, and of course we are delighted, and we are going to give you that time; we are delighted to, and when we get you back in your hotel, we want to learn what we can from you about this experience."

Well, there was a triumphant procession by Mrs. Roosevelt, from one building to another, and it was very moving to see the affection and the respect and admiration that this woman brought to the faces of all who saw her. And the boys, the men I suppose too, were proud, except for some of them on the outskirts; but otherwise most of the people in the center seemed to be following in a long trail as Mrs. Roosevelt went from place to place. I don't know how I got on this subject.

MR. MACBETH: Well, I must say I think I've gotten lost. Thank you.

What you were discussing was closing the centers, but I think at this point I will come to the end of my questioning.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: Mr. Glick, the WRA controlled entry and departure to the camps, is that correct?

MR. GLICK: Yes, sir.

JUDGE MARTUANI: We have in the field heard some testimony from veterans, Nisei veterans, including trainees down at Hattiesburg, Mississippi, who just before being shipped overseas wished to pay -- perhaps in many instances it did turn out to be their last visit with their family in the camps; and the sad part of it was, at least I must tell you from my own standpoint, that these men in uniform were required to be escorted by some other new recruit, point number 1, to get to the camp. And then once they were in camp, they were not permitted to leave at ease; they lost their freedom for the period of the furlough.

Would you have any comment on that? Is that so? It just seems so contradictory that a person in uniform could defend his country and is suddenly imprisoned in his own country.

MR. GLICK: I have no information whatsoever about that. I can throw no light on it.

JUDGE MARUTANI: I see.

MR. GLICK: I find it hard to believe it is a fact, but that is no help. I don't know.

JUDGE MARUTANI: My second question is a short one which requires a short answer, and is frankly an idle question. The leave restriction was raised, I believe, or lifted, two days before the end of the decision came down, is that correct?

MR. GLICK: I don't recall that.

JUDGE MARUTANI: I think that is correct. Did you have any inkling as to what the Supreme Court on the Endo case?

MR. GLICK: No, sir.

JUDGE MARUTANI: Thank you.

CHAIR BERNSTEIN: Are there other questions? Dr. Flemming?

DR. FLEMMING: I have just one question. You gave us an interesting description of the efforts on your part and the part of your colleagues to obtain employment, either agriculture or other types of employment. We all realize that we were in a period of serious shortages in terms of workers in the field of agriculture, war production, support services, and so on. I attended a meeting virtually once a week where those shortages were discussed and where people were constantly trying to figure out how to deal with these shortages.

How many, in your judgment, and I appreciate this will be just a rough estimate, of the persons who were involved in the evacuation, would have been employed in agriculture, war production or support services if they had not been evacuated and placed in camps?

MR. GLICK: I suspect that the proportion would have been exactly the same as for any other group of the population. We found nothing to indicate that these people would have any difficulty whatsoever in supporting themselves.

DR. FLEMMING: And you were able to work out

employment for some, but what was it, 10 percent, 15 percent, 20 percent of those who might otherwise have been employed, as a result of your activities?

MR. GLICK: Well, we frequently found it difficult to find a job --

DR. FLEMMING: I know.

MR. GLICK: -- that could be filled by particular evacuees --

DR. FLEMMING: I appreciate all of the problems, and I appreciate the fact that you did carry on a positive program, and I appreciate all of the obstacles that stood in your way. But here is a group of persons who, if they had not been evacuated, if they had not been placed in these camps, would have been available for employment in agriculture, in war production, in support services; but having been placed in the camps, only a relatively small percentage were actually available to our nation at a very, very critical point in the life of our nation.

MR. GLICK: That's correct, yes.

DR. FLEMMING: Would you say what, 10 or 20 percent maybe?

MR. GLICK: I don't know what percentage it would be. I would be tempted to say of the evacuee population that we sent to the centers, any one of them could have made a valuable contribution.

DR. FLEMMING: But of that total number, you were able to get placed over this span of time, what?

MR. GLICK: Sooner or later everybody.

DR. FLEMMING: Sooner or later, yes; but it took a long time in some instances, and for a variety of reasons.

MR. GLICK: Well --

DR. FLEMMING: And I appreciate this does not lend itself to a statistical response, but I'm sure we would agree on the fact that by doing this, the nation deprived itself of a very important contribution that could have been made by the Japanese Americans at a very critical point in our history.

MR. GLICK: Definitely, sir.

May I just add the that final report of the War Relocation Authority contains a number of appendices -- statistical appendices -- that were prepared jointly by the WRA Chief Statistician and the WRA historian, that give statistical tabulations of the applications for employment, types of work experience, etc.

DR. FLEMMING: Thank you.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: At what date did WRA take over control of the evacuation program from the War Department?

MR. GLICK: At no date. WRA never took over any kind of authority over the evacuation program itself from the War Department.

SENATOR BROOKE: What was the time of the beginning of your agency?

MR. GLICK: The War Relocation Authority (WRA) was established in the President's Executive Order 9102, signed very early in April of 1942.

SENATOR BROOKE: Of '42?

MR. GLICK: Yes.

SENATOR BROOKE: At any time did you have any participation in decisions as to when the evacuees would be returned to their homes?

MR. GLICK: Only in this way, Senator. I think I mentioned earlier in stating the goals and priorities the WRA set for itself, that one of the important ones was to reopen the exclusion area. We talked to the Army and to the Army civilian officers a great deal about that, and they actually did come through on that, and reopened the exclusion area several months before the war was over. We had stressed that it was important as a symbol to the public that these people could be trusted, that the Army had complete confidence in them, and we wanted that to happen before the war was over.

SENATOR BROOKE: But that was a long time after the reasons for evacuating them in the first instance had ceased to exist?

MR. GLICK: That's right.

SENATOR BROOKE: But in any of that time did you have any participation in any decision to postpone the exclusion?

MR. GLICK: No, sir.

SENATOR BROOKE: Did you feel that after the reason the purpose for evacuation ceased to exist that they should have been -- I won't say at least, but should have been given the opportunity to return to their homes?

MR. GLICK: Yes, sir.

I said in writing in an opinion to the Director of WRA, which he wanted for his guidance -- he asked me for my opinion on it and I told him that in my judgment, the only part of the detention program that was reasonably certain of being ultimately ruled valid by the Supreme Court, was detention pending sorting, but that as to the rest, WRA, I said, was in this peculiar position. It cannot refuse to carry out the responsibilities given it in time of war. It must carry them out, and that includes detention, relocation, etc.; but on the other hand, we cannot release these people even if we believe that the courts would not sustain the detention. In effect, we said, surely the President of the United States is entitled to have his lawyers defend his decision in the courts of the United States, and then the responsible courts will be free to decide.

We inferred from that that certainly WRA should in no way whatsoever impede access by the evacuees to the courts, and if they wanted information from us or if their lawyers needed any documents from us, we must certainly offer it to them. But beyond that, I told him, even though detention other than pending sorting is of serious doubt as to constitutional validity, nevertheless, you have no alternative but to detain.

SENATOR BROOKE: And they were detained?

MR. GLICK: They were detained.

SENATOR BROOKE: They could not on their own return to their homes?

MR. GLICK: To their homes, you mean to the excluded area?

SENATOR BROOKE: Yes.

MR. GLICK: No, sir; they couldn't, even with a leave permit, until the exclusion area was terminated.

SENATOR BROOKE: Thank you.

CHAIR BERNSTEIN: Thank you very much, Mr. Glick. You have been very patient and we appreciate your testimony very much.

Mr. Calvert Dedrick.

At long last, Mr. Dedrick, please forgive us. We've kept you waiting two days.

Mr. Dedrick is here in his capacity as a former statistician of the Census Bureau, detailed to the War Department.

Would you like to present your statement, or would you prefer to go to questions? Do you have a preference?

STATEMENT OF CALVERT L. DEDRICK

MR. DEDRICK: Madam Chairperson, since you already have my statement, which is quite brief, on my experience, the events, and my functions, why don't we begin with the questions?

CHAIR BERNSTEIN: Fine, thank you. That's a very good suggestion.

MR. DEDRICK: I would be very happy to answer any questions I possibly can.

CHAIR BERNSTEIN: Mr. Macbeth, do you want to begin

the questioning, and if there are any additional questions we will go on to that.

MR. MACBETH: The first question, Mr. Dedrick, is a general one. Could you describe to the Commission the type of information which the Bureau of the Census made available to the Wartime Civil Control Administration at the time of the evacuation?

MR. DEDRICK: I think that, Mr. Macbeth, I should state that the census of 1940 was taken on April 1st, and then we tabulated it for the next three or four years, as always, giving increasing detail by areas. Usually when we got a count as we did up to that time, had a count of how many people lived in each village, in each minor civil division, - county, township, and so on, build up to a state; and then we would give some tabulations, not too much detail for small areas. Then as we combined the cards -- these were punchcards, not computers in those days. There was a card for each individual but it did not contain his name or address, of course. We combined those cards by groups; this is a racial group, this is a sex group, this is a marital group, and so on and so forth, and tabulated each of those or cross-tabulated them in Census Bureau machines and IBM machines.

In the fall of 1941, -- or in the winter of 1941, about the time of Pearl Harbor, we had gotten in our tabulation program to the state of tabulating by nationality, or by race, not nationality. Later nationality follows the race tabulation.

And at that time our director, Captain J. C. Capt, who had been a captain in World War I, because of Pearl Harbor, requested that a separate duplicate set of the 128,000 or 130,000 cards of the Japanese persons indicated racially Japanese on the census be set aside, be duplicated so as not to interfere with the regular tabulation of the census cards.

Later on, at the end of February, when my services were requested and the assistance of the Department of Commerce, the Bureau of the Census -- under the Executive order, I, on detail to the War Department, asked the Bureau of Census to give me a detailed cross-tabulation for even the most minute areas, the smallest areas for which data were collected. In other words, enumeration district and in some instances, cities by blocks. The cross-tabulations that would normally be prepared for even the largest district or state in this instance, and those sheets of paper from the tabulating machines were sent out to WCCA in the Whitcomb hotel at Market Street in San Francisco. They became the basis for the WCCA statistical activities.

From February 27th to June 7th, I was consultant from the Bureau of the Census on operations out there, acting more or less as a physician in an operating room performing certain functions.

Then after June 8, 1942, I became an employee of the War Department, actually in the office of Mr. McCloy, and was reassigned out there, then later to the Provost Marshall General's office.

And it was on the basis of these tabulations that

we received from the Bureau of the Census that you will find these statistics in I think it's Chapter 8 of the report.

MR. MACBETH: The report you are referring to, is that the final evacuation report?

MR. DEDRICK: The final report on evacuation. And I stayed on after the evacuation had been completed until the end of February 1943 before I was transferred back to the Office of Provost Marshal General, and worked then on the release program, and was transferred later to the Prisoner of War Labor Program.

In the course of the evacuation, we had a family form which I designed with the assistance of my staff, in consultation with other people, which was filled out at the time the family registered at the registration center for evacuation, and a copy of that went on to the WRA. Later, those forms were tabulated, as I understand by WCCA after I left there, a total of 12 volumes - printed reports - just of statistics were prepared for WCCA by my successor.

MR. MACBETH: Let me go over with you one step at a separate time so I'm clear about the census material.

The cards that the Census Bureau had from the 1940 census, I take it, would be individual cards for each person in a household, but it would not have a person's name?

MR. DEDRICK: That is correct.

MR. MACBETH: But each card would give whatever information the Census Bureau was collecting -- address, sex, age --

MR. DEDRICK: No, no address.

MR. MACBETH: No address. Sex, age, national origin?

MR. DEDRICK: Correct.

MR. MACBETH: And a number, I'm sure, a much larger list, I'm sure, of questions of that sort -- employment?

MR. DEDRICK: Yes.

MR. MACBETH: Now, I take it what you've testified to is that those cards were not given to the WCCA?

MR. DEDRICK: No, those cards were prepared at each Census usually, but tabulations were made from those cards from modern tapes, and requests of purchasers of that special tabulations. None of the original data or original tapes or cards, in the old days, is ever released to anybody. That is the way to protect confidentiality of the census -- by not giving an individual card to anyone.

I might indicate that in the case of the evacuation on the West Coast, the census was taken on the 1st of April 1940, and a year -- to April 1, 1941, of course, or say a year and a half, until December 7, 1941 -- had the usual amount of migration of the Japanese as it did all other parts of the population, from one area to another. So that the census as of the time of Pearl Harbor, of course, was different and immediately after Pearl Harbor it appears that there was a moment of Japanese consolidating themselves in certain areas, and not being quite as dispersed as they were. We ran into that when we tried to use the cards in -- or the data for the individual townships or cities or blocks or whatever

enumeration districts -- in the spring of 1942. They, like anyone else in time of crisis, as a minority group, always try to consolidate. This is sort of a sociological law and our first statistics estimate of how many people we would find in a given exclusion area was always much more than we found in the exclusion area which was out on the fringes. But as we got towards the center of the cities and the larger towns we got more than we had originally estimated from the census. A very interesting sociological human phenomenon.

MR. MACBETH: And you put that down essentially as a reaction to a period of crisis, externally imposed stress in the population you're looking at?

MR. DEDRICK: I have seen this same thing happen to Americans abroad. I was raised as a missionary's son in Cuba, and I traveled a great deal in Latin America and some in Asia, and whenever there is a crisis, foreign colonies Americans and others tend to concentrate; they move in with each other. People in the outlying suburbs who were most exposed, for instance in Tehran, moved back into the centers, closer to other Americans in Tehran, or moved in with them.

Thus our census data or our cards and tabulations for April 1, 1940, were only general guides for us in 1942. Of course they did show us a great deal, as you'll notice in Chapter 8 where I did a demographic type analysis and statistical analysis. It showed us a great deal about the history of the Japanese, and the composition of the Japanese population, Japanese including aliens and natives, as

of April 1, 1940. And this is most interesting that the Japanese, for instance, had obtained a much higher educational level on the average than non-Japanese Americans.

The Japanese, of course -- their family was different than the American family in the community in that daddy, quite often, had come over as an early laborer; mother came over in the picture bride period; the children were much younger than their father -- much younger than their father as compared with non-Japanese, and there were almost no aunts and uncles, very few aunts and uncles and cousins. This community then consisted of husband, wife, grandparents or parents, and children, their children and a vertical line, but not with aunts and uncles and cousins and everybody else, such as you and I were probably raised with in the United States.

This is a very interesting sociological phenomenon that arises if you will look at chapter 8 in this report. I wrote Chapter 8, and helped to edit the rest of the report to some extent before I left the west coast at the end of February 1943 to come to Washington.

MR. MACBETH: Obviously, the protection of confidentiality of sensitive material -- such as the type you describe, depends to a large extent on the size of the pool in which the individual cards are placed. What would have been the size of a typical pool division of these cards?

MR. DEDRICK: I can't guarantee this figure exactly, but I think 2,500 to 3,000 was the size of the enumeration district at the time of the 1940 census. Some of these were

smaller and some were large. Some enumeration districts, we discovered, had originally been designed from maps as being too large, and we split them into an A and B section. Some districts overlapped, county boundaries or township boundaries, or city ward boundaries, and so on, so we had to split them into an A and B section, making them much smaller than was desirable from an administrative point of view.

My functions in WCCA were to head up a statistical staff. We had a military map room, and we followed the logistics and the orders as to the priority. On the top floor of the Whitcomb hotel up in the roof garden where people used to dance, we had a mapping section and the gentleman who was in charge of that map is married now to a Japanese girl. And they're both dear people.

We prepared maps for each of the areas for which an evacuation order was prepared in another part of WCCA. We also drafted questionnaires and we kept track of the progress of visitors, of travel into and out of the area, and other forms of that type that was the ebb and flow of information to WCCA's statistical office.

MR. MACBETH: I have no further questions of this witness.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: Mr. Dedrick, what were the number of individuals who were involved on this census count relating to, of course, the Japanese Americans and their parents -- approximately?

MR. DEDRICK: Approximately, in the United States, as I recall, these were approximately 128,000 or 130,000, something like that, Japanese as returned by the census and we evacuated around 112,000, as I recall, from parts of Arizona, all of California, Oregon and Washington.

JUDGE MARUTANI: The statistical summary that you provided to the WCCA involved about 112,000 individuals?

MR. DEDRICK: Yes, that is correct; but in the total picture in the United States, it would be around 130,000 people. I must remark on that. There had been an amazing spread, of course, of the Japanese population in the United States, as a result, I believe, of this evacuation program, and the relocation program which Mr. Glick just mentioned to you, and the 442nd, which we're all very proud of.

You will find in present day census Japanese in quantities in eastern cities where we never found them before 1940.

JUDGE MARUTANI: Well, this statistical summary was narrowed down as to the smallest denomination would be by blocks, is that correct?

MR. DEDRICK: In some cities it was down to blocks, yes.

JUDGE MARUTANI: So that in a certain block in a certain city you could provide information and did provide information to the WCCA that there are X number of persons of Japanese ancestry in that particular block?

MR. DEDRICK: That is correct.

JUDGE MARUTANI: Sir, would it not have been easier for the Census Bureau, rather than tying up your personnel with making statistical summaries, to simply run off duplicate cards and say here is 112,000 duplicate cards for you WCCA?

And my next question is, did you do that?

MR. DEDRICK: We did run off duplicate cards, but those duplicate cards, as in every instance as required by the confidentiality features of the census law, remained within the control of the Bureau of the Census, and are always tabulated by the Bureau of the Census as required for protection of confidentiality. Otherwise, if I gave you a deck of cards and you knew that in a certain block of a certain city there was only one family, and you knew the name of that family, you sorted all the cards out for that block, then you would have all the confidential information given to the Census by that family.

JUDGE MARUTANI: Well, sir, you have the census report there or the book right there.

MR. DEDRICK: Yes, sir.

JUDGE MARUTANI: Would you please turn to page 352, and I believe Chapter 28 entitled, "Statistical Summary;" that's page 352.

MR. DEDRICK: Yes, sir.

JUDGE MARUTANI: In the middle of that page, I call your attention to the following statement, and it starts out, "The most important single source of information

prior to the evacuation was the 1940 census of population. Fortunately, the Bureau of Census had reproduced a duplicate set of punch cards for all Japanese in the United States shortly after the outbreak of war, and had prepared certain general tabulations for use of war agencies and so on. And as a matter of fact, General DeWitt indicates in his report that this was one of the most productive bits of information for expediting evacuation."

Now, did I misread that when it says, "reproduced a duplicate set of punch cards?" Were these --

MR. DEDRICK: As I indicated sir, the method of taking the census is such that we enumerate and then we punch a card for each individual; and these cards are then identified by areas, and we give only a very general total count for the smallest area; and then we give a little more detail for the next larger political area and so on, until the State we give the complete cross-tabulation.

Now, at the time right after Pearl Harbor, the director of the Census was a captain of World War I, J.C. Capt by name, and he had ordered on his own, as I understand it, a duplicate set of cards made while the cards were sorted by racial designation before they started through the United States tabulation. And that separate set of cards was available when I went to the west coast, and we immediately ordered a complete tabulation for even the smallest area by the most detail that the census could give us.

JUDGE MARUTANI: Of course you arrived there, I

believe, around February was it, of 1942?

MR. DEDRICK: I arrived at noon on February 27th.

JUDGE MARUTANI: And did you have access to any information indicating that the Census Bureau had released information to the WCCA prior to your arrival, and more specifically focusing upon the month of December 1941?

MR. DEDRICK: The Bureau of the Census had not released any information to any agencies on the tabulation of those --

JUDGE MARUTANI: No, aside from the tabulation, sir, any of the results of the 1940 census, had any of the yield therefrom been made available to the WCCA prior to your arrival?

MR. DEDRICK: I don't believe so. I don't see how it could have happened, because I got there ahead of Colonel Bendetsen.

JUDGE MARUTANI: What was your understanding as to the purpose to which, or the use to which this data would be placed?

MR. DEDRICK: I find that difficult to define, because I was like a specialist, let's say, in orthopedics or something -- some medical specialty -- who is called into an emergency operating room to perform a particular function. It was not up to me to define who would do what but I was assigned a particular function to do -- which was to get statistics from outside the census and any place I could get them. We did use statistics from the States of California, Washington and Oregon and so on to the best of our ability,

as well as census data. And then to organize a statistical section in WCCA, with a mapping unit, with a tabulating unit, with a report analytical unit, and, in effect, a war room in which we kept the officers in charge up to date as to where people were, how many of them moved from here, how many were moving back and forth under permits of one type or another and so forth.

JUDGE MARUTANI: But I take it, sir, you would not have supplied the information if in the course of doing so you would have been violating some law?

MR. DEDRICK: No, we would not; and that is a law that we're very proud of.

Incidentally, you have probably heard of the War Powers Act of the Spring of 1942. That affected the Bureau of Census, and we are specifically mentioned in it, I believe, and that was because the administration and War Production and other economic statistic agencies and a regulatory agencies -- were given power by the Congress to collect and compile statistics which the Bureau of the Census was already collecting and compiling. And under the War Powers Act, the industry, for instance, General Motors, didn't have to submit two reports, one to the Office of Price Administration, and another to the Bureau of the Census. But this one report would be for both agencies. That only happened on the economic census side of the Bureau's work, not on the population.

JUDGE MARUTANI: Under the War Powers Act, did the Census Bureau have certain restrictions removed from releasing

certain information? That is to say, absent the War Powers Act, was there any act engaged in by the Census Bureau which would have been a violation of the law?

MR. DEDRICK: No, there was no such thing.

JUDGE MARUTANI: So you're not relying on the War Powers Act vis-a-vis the Census Bureau's activities?

MR. DEDRICK: No.

JUDGE MARUTANI: Well, what was your understanding as to what purpose the information would be used? I take it that you just did have some idea, in fact a pretty good idea, in fact, what it was going to be used for.

MR. DEDRICK: Sir, I was 41 then; I'm 40 years older now, and at 41 I was fairly, I thought, I was aware of what was going on in the country. I knew that the relocation was going on. I knew that. I sat in confidential staff meetings with General Bendetsen and his staff. I knew of the decision to evacuate the Japanese racial group from the west coast, certain west coast areas, and I knew that the President of the United States had signed an Executive Order. My sociology friends over across the Bay at Berkeley were very upset at me, but I must say that I reached up to the University of Washington and got a professor of sociology and his principal graduate student as my right-hand and left-hand man in this thing, and I would assure you that sociological considerations were in the background, but never in control.

JUDGE MARUTANI: So what I understand you are saying is you did know this information was going to be used by the

WCCA to round up persons of Japanese ancestry so that they could be sent to the camps?

MR. DEDRICK: Well, that was my duty to try to use it.

JUDGE MARUTANI: And that was the reason for why this information was released, and you were aware of it?

MR. DEDRICK: Yes.

JUDGE MARUTANI: What about the provision in the law, sir, that was existing at that time, reading as follows: "That in case shall information. . ." and it does not say names or addresses . . ." in no case shall information furnished under authority of this chapter be used to the detriment of the person or persons to whom such information relates."

MR. DEDRICK: That, sir, has special reference. Our attorneys at the Bureau of Census have since informed me that relates to age search and other special tabulations which are purchased of the Bureau of Census by, let's say J. Walter Thompson Company, or an attorney. Many attorneys seek to get information for a client about that client's brother, when the client is suing a brother. And that provision of the law that you are now quoting says that we may not furnish that information which would be detrimental to that person.

JUDGE MARUTANI: In other words --

MR. DEDRICK: In other words, a special tabulation of an individual, you, sir, can get in lieu of a birth certificate. You can get a certification that you lived at the census time, let's say 1940, in such and such a household at such and such an address, and the head of the

household was Mr. so-and-so. You have to provide certain information and you can get that from the Bureau of Census and that is under the provisions of the Act that you have read. But I could not get it, and Dr. Flemming could not get it. You can get it.

JUDGE MARUTANI: Well, as I understand it then your solicitors have advised you that this language means, and I'll read it again, "In no case shall information furnished under authority of this chapter be used to the detriment of the person or persons to whom such information relates." If that means that A wishes to sue B, you can't get that information; but on the other hand, if X wishes to incarcerate 112,000 people, you can get that information, is that the advice that your solicitors gave you?

MR. DEDRICK: This matter did not come up before our solicitors at that time, I'm sure.

JUDGE MARUTANI: Then in other words, if I understand it, you did not consult with this particular restriction when you released this information relating to those who were eventually incarcerated, is that correct?

MR. DEDRICK: No. When we make a special tabulation, we try to protect confidentiality showing information about a given individual. However, the fact that there are so many Cubans living in Miami is a census fact and a statistical fact, and if something happens to the Cubans in Miami, that is not our fault, that is not used to their detriment. Otherwise the pains of the government of the United States, which takes

the census and is responsible for the census, will be completely tied in ever, ever using information from the census because somebody might consider it to their detriment.

JUDGE MARUTANI: Well, I don't want to prolong it. I think I have the answer, but I cannot help but make one comment that perhaps if I was a Cuban American and the census information came around, and particularly if I lived in South Florida, I may leave that space blank or put something else other than Cuban with this type of interpretation, I must tell you that.

MR. DEDRICK: Then, sir, you would be in violation of federal law.

JUDGE MARUTANI: Well, it's better than being jailed for certain.

CHAIR BERNSTEIN: Are there any other questions?

Thank you very much, Mr. Dedrick. You have been, as I said before, very patient with us. It's been a long couple of days.

Mr. and Mrs. Michener, James and Mari Michener.

Welcome, and my customary apology for keeping people. It has become customary. I don't mean it lightly. We have not intended to keep people waiting, but we have had to inquire into so much, and we have all looked forward to hearing from both of you.

Mr. Michener, would you like to commence? Or Mrs. Michener?

STATEMENT OF JAMES AND MARI MICHENER

MRS. MICHENER: Members of the Commission, you've been most patient listening to all of the witnesses in all of the cities throughout the country. I have been patient, too. I have waited 40 years for this opportunity.

I am Mari Sabusawa Michener, and I live in Pipersville, Bucks County, Pennsylvania, but we are temporarily residing in St. Michaels, Maryland. I'm a sociologist and have worked in the field of race relations with the American Council on Race Relations, and as an editor for the American Library Association in Chicago, Illinois.

My family lived in Long Beach, California, where I was a student at Long Beach Junior College. When rumors grew of the possible evacuation of all persons of Japanese ancestry from the west coast, I remember asking my English teacher at Long Beach Junior College, Dr. James D. Moore, who was also a family friend, if that was possible; and I remember his reassuring words to me. He said, "You are an American citizens, and your brother is an American citizen. This is America; nothing will happen to you, but perhaps your mother, who was born in Japan, might have some of her movements curtailed. But I doubt even that because we know all of you are law-abiding citizens."

Within a few days the faith he and I both had in the workings of a democracy was shattered, and my family was sent to Santa Anita Race Track in Arcadia, California, which was one of the assembly centers before incarceration into an

internment camp. My brother had less than one week to sell his business, which a fruit and vegetable market. He was offered the sum of $100. It was a choice of either taking the offer or nothing. He chose to take the $100.

I remember thinking at the time, "We are not accused of any wrong-doing. We were born and raised in the United States; we were educated here. Don't they even have any faith in our own educational system?"

It was a period of great anxiety and frustration. I joined my family in Santa Anita about two weeks later, since a few of us were asked to help in the registration of the evacuees in Southern California by the Wartime Civil Control Administration. There were seven of us as I recall, and we were paid $4 a day, out of which we paid our own hotel and meals, as we went to Downey, Pasadena and Los Angeles.

I had saved some money for college; I had transcripts to go to the University of California, but most of this was spent on my expenses during this period. The agency stationed at the WCCA centers were amazed at the patience and orderly behavior of the evacuees. I felt shame, humiliation, and then outrage that I, an American citizen, without due process of law, was forceably moved from my home to an internment camp. The excuse given that we were placed in camps for our protection is not valid. The camps were guarded by soldiers with guns in watch towers with revolving search lights. The guns were pointed into the camps and not outside -- or they may have been pointed in both directions.

I'm sure that many, if not all of the evacuees had to some degree this feeling of utter helplessness knowing that no one was going to come to our aid. There we were -- Americans with Japanese faces. I, as a victim of racial prejudice which resulted in the forced incarceration of some 112,000 persons, two-thirds of them being American citizens, am pleased that Congress has finally created this Commission to inquire into what happened, how it happened, and why; and to bring this tragic and sad period to the attention of the American public, most of whom know very little or nothing of this story, and some, I'm afraid, do not even care.

I'm appalled that so few of the mass media came to our defense, and against the evacuation in 1942. The statements made by the organizations like the Associated White Farmers in California, the Chamber of Commerce, the League of Sons and Daughters of the Golden West were very prejudiced against us. A democracy is a very fragile thing. In the future if a similar situation arises, which made the 1942 episode possible, we hope our country is better prepared to uphold the civil rights of its citizens and permanent resident no matter how few the number. Whether in war or peacetime, the constitutional rights of every citizen must always be foremost. The persons responsible for making the final decision on evacuation clearly failed in this.

Finally, for losses incurred, economically, physically and emotionally, I would strongly recommend monetary redress for each evacuee. No amount, of course,

could possibly compensate for all the hardships endured during and after this period. If the Commission recommends redress, whatever amount it agrees upon, or should the Commission in its wisdom decide against compensation to individuals, it might be proper to establish a general fund to be used to alleviate the distress suffered by the victims. It might be well for the government to remember that it is costly to abridge the rights of its citizens.

CHAIR BERNSTEIN: Thank you.

Mr. Michener?

MR. MICHENER: I am James Michener, married to this lady, and I have for many years been writing and researching on this subject. I'm impressed by the gravity of the undertaking which is in your hands, because many nations are struggling with similar problems, and what you decide, I think, will be cited widely. Also, I think that anyone, an historian like me, has got to believe that we might again in the next 30 or 40 years face precisely the same kind of problem. I can see that as a real possibility. And I think therefore that what you state at the end of your deliberations will pertain not only to this immediate period but to a great many decades ahead. So I'm impressed with the great problems that you're grappling with, and with the quality of the Commission that has been called upon to do that, because you are speaking for a great, great many people.

In World War I, the German citizens of the United States were killed on the streets in Chicago, and I believe in

one or two other communities; and this caused such a moral outrage, that it paved the way in public life in the mind of men like Roosevelt and Biddle, and the men we have been talking about this morning, to see that it did not happen again in 1941. So that the events that happened in Chicago and elsewhere pertained immediately across the country, and I think that we are extremely grateful that in 1941 no recurrence occurred, so that we could go to Nuremberg after the War with relatively clean hands.

I'm not sure all the decisions at Nuremberg were correct, but at least we did not have to go apologetically, and we didn't have to go apologetically because wise people had learned in the preceding 30 years. Perhaps your report will enable us to perform even better in some year like 2010, which is not too far away when one comes to think of it.

I have worked with these materials for 20 years or more, and certain generalizations have evolved, whether I wanted them to or not, and I'm simply going to throw them out without a great deal of supporting data, and I would be pleased to go into it.

I believe that the evacuation in California has to be viewed as a racist move. I really cannot see it as any other. I remember President Roosevelt's remarkable letter when the hysteria evolved on the west coast hit the on east coast. The President wrote to Herbert Lehman of New York City: "Please be assured that I am keenly aware of the anxiety that your German and Italian aliens living in the United States

must feel as a result of the Japanese evacuation from the West Coast. Will you please assure Mr. Antonini that no collective evacuation of German and Italian aliens is contemplated at this time? Further, in dealing with such alien problems we shall, insofar as possible, differentiate between those who are disloyal and those who are loyal to the United States."

In other words, the Germans and Italian aliens living in the United States were to be given, on the word of the President, a consideration that was denied citizens on the west coast. I think it is understandable why, I think President Roosevelt was probably writing sensibly at that time, in that we knew what Germans and Italians were -- we had affiliations with them for many years. It is true that they lived in a more vulnerable part of the United States than the Japanese did geographically; there was more danger from the German submarines and German attack than there was from Japanese submarines reaching the west coast, but we knew what these people were, and we were willing to concede them every consideration, and I think we are all glad that we did. Therefore, that leaves us with the residue of why we behaved as we did on the west coast.

It was also an economic move. I studied in great detail the reaction in Hawaii where there were far more Japanese, both in numbers and in percentage than on the west coast, and if there were any legitimate basis in the reasons put forth by the spokesmen on the west coast, they applied

trebly in Hawaii. But it also applied in Hawaii where some very sensible tough-minded American businesses who knew very well if they put all of their Japanese into concentration camps, the whole economy of the islands would collapse; and so there was an honest hardwork and thoughtful approach of whether we should or whether we should not, and all of these men came down in favor of not doing it, because they felt that the economic situation was so powerful that they must handle the loyalty question off to one side; and they did. They did it beautifully. They did it without recrimination and they did it without hurt and certainly without any damage at all to their country.

It represented a suspension of ordinary intelligence. I have read few things in recent years more amazing than Attorney General Warren's contention that -- he says, the very fact that not a single act of sabotage has taken place to date is a disturbing and confirming indication that such action will be taken. He argued that because in his State of California, with all of the Japanese that he had in vital positions, not a single act of sabotage of any kind had taken place, merely proved that they were waiting for a more propitious moment to do it. And I think if there is any more beautiful example in American public life of a great man learning from his mistakes, it is in the case of Earl Warren whom I hold in such high regard because it is quite obvious that in later years when he faced this problem again in a different arena and with a different significance, he gave

an entirely different answer, which I think was great to his credit and to the welfare of our country.

But at that time we were tempted by these fatuous decisions because nobody, like your commission 30 years before, had laid out the warnings that such situations produced ridiculousness; and it must be combatted in time of peace so that it doesn't overtake us in time of crises. And I think that one could at this moment cite 30 or 40 cases like this ridiculous reasoning of Mr. Warren's, and there are several like him who must for the rest of their lives feel greatly ashamed of what they wrote in the heat of that nonsense. Certainly those of us who avoided it can be very thankful we were not indoctrinated with that in the ten years prior to 1941, or we might very well have been in that same kettle.

People do not avoid nonsense and wrong because they are superior people. I don't believe that at all. They avoid it because precedents are laid out for them and they learn from them.

It constituted an irresistible temptation to continue injustice, and I think this is the most striking fact that I've come upon in my recent restudy of this -- that it was cranked up with great fanfare, and with a very heavy superstructure -- so that then there every reason in the world to keep it going. I think that's one of the saddest things about such error that you commit, and then you are almost obligated to keep it going. It's quite clear from the evidence we heard even today that this whole thing could have

been liquidated at the end of about 14 to 18 months. But when you have all these camps, when you have all this personnel, when you have all these rules written, and when you have the superior intelligence which we have heard about operating on it, then you are almost obligated to keep it going, and so people who could have been moved into the camp for a certain rational reason were then kept there long beyond the time that any of that reason pertained.

But because I am a writer, I know very well that definitions must be carefully protected, we must be very careful how we use words. The camps were prisons, there is not much doubt about that. The bill that established your council, or your committee in Congress used the word "concentration camps." My wife has argued with me bitterly about using that word. She says that it is peorative and that I should not use it. I am particularly impressed that our camps were most humanely conducted.

I have by the sheerest accident within the last three weeks, spent a good deal of time at the Nazi extermination camp at Majdonek, near Luban, in Poland, and I think I know the difference between it and something like a camp in Montana or California. There is no comparison. This was an American solution to an ugly problem, and great error was involved in constructing, but it was not pursued in any vicious way to any illogical conclusion. I would be fair to my wife's judgment that concentration camp is too harsh a word, not by definition within the United States, but by definition that it

has been given abroad. I think we should not tar ourselves with a brush that other people have made. We avoid the terrible tragedy of the camps I have just been visiting, and I think we can thank men like Mr. McCloy; we can thank men like Francis Biddle, we can thank the men we put in charge of these camps that they would not allow that savage deterioration.

What recommendations do I come up with? Your great contribution will have been in ventilating this problem, in getting a record which will stand. Your report will make future error just a little more difficult, and it should be written with that great aim in mind.

I do not see this as washing dirty linen. Democracy inspects its behavior; it does so through a dozen processes that some of you have gone far to establish and to operate. Our courts do this; commissions of inquiry do it; our writers do it; the rewriting of our laws does it.

As to compensation, my wife and her friends did suffer grievously, and she sees this as a person, whose family was almost wiped out by this. I am a historian, and I see it as one more event in the long history of nations. I find myself in complete agreement with the judgment of the Honorable Henry Jackson of the United States Senate -- compensation is certainly one. It should not at this late date go to individuals but to some kind of commission for the education of assistance to minorities. What for it should take I'm not wise enough even to suggest, but I am impressed through the history of the United States, by the great good which has come from

such actions as the Homestead Act passed in the middle of the Civil War; the Railways Act which said look, we've got this great nation, the most important think is not whether somebody in New York makes a few extra dollars, but to get the railroads west and we'll give you this land.

I think one of the finest things done in my lifetime is the Education Act after World War II which many people in this room must have the positions they have now because they were educated at partial government expense at that time.

I'm impressed that within the last week a branch of the government has asked me to testify on one of the grievous problems in the Pacific Ocean, where the United States at the end of World War II agreed to compensate island citizens for the coconut palms that we destroyed in building airports and bases for our defense and also for theirs.

This has infuriated many sensible people that we should pay for coconut palms in the South Pacific when we were fighting their war. But we have all agreed that even though we are using our equipment and our money and our energy to help save them, if we destroy their property in doing so, it is only proper that we should compensate them. And I think that sort of point ought to be kept in mind in thinking about this. As I say, I am not in favor of compensation to individuals, but I do believe that democracies are very prudent from time to time in looking at their actions, even long after they happen, and agreeing that compensation was in order.

In conclusion, I do look far ahead, and I do see your report serving a most marvelously useful purpose, not only for this nation, but for others.

Thank you.

CHAIR BERNSTEIN: Thank you very much.

Mr. Macbeth?

MR. MACBETH: I only have one inquiry, Mr. Michener. You have referred to other countries facing similar problems, and just from our own point of view in trying to collect as much information and background as we can on similar situations, it would be valuable at least to the staff of the Commission and probably to the Commissioners themselves to have some indication of the similar kind of situations that you are thinking of, either now or some later point.

MR. MICHENER: I would like to submit that, Mr. Macbeth. Verbally I will give my thought. I think we see the problem in Jordan right now very acutely, with the kind here visiting with our President right now and the problems that relate almost exactly to this. I am very aware of it in Pakistan where there are great movements of people and where compensation was adjusted between the two countries.

In Northern Ireland it will be a problem for quite a few years to come, and very strongly in Poland where there was a movement from the western border to the eastern border, and vice versa, and it has not yet been resolved. And I think that Japan has the problem with the northern islands which Russia has taken over. There has been that same kind of

loss, and discussion of compensation.

They are never easy problems to solve. They will be with us constantly.

MR. MACBETH: Thank you.

CHAIR BERNSTEIN: Other questions? Father Gromoff.

FATHER GROMOFF: Mrs. Michener, were the guard towers actually inside the compounds?

MRS. MICHENER: Well, at Santa Anita they were right at the gates, or on the four or five around the perimeter of the camp. Now if I had to put my hand on a Bible and say did the legs of the watch tower rest in the camp or out of the camp, I would not be able to answer that; but I do know that they were situated in such a way that we could see the soldiers with the guns, and they were always -- every time I saw them they were pointed inside. The search lights went on all night.

FATHER GROMOFF: Earlier we heard they said everything was outside.

MRS. MICHENER: Well, it was very close to the fence then.

CHAIR BERNSTEIN: Dr. Flemming?

DR. FLEMMING: Mr. Michener, first of all I want to express appreciation for the testimony of both you and your wife.

I was interested in your emphasis on the fact that what we knew, what the President, the Congress does in response to our report, may influence how this nation deals with a comparable situation in the future, you said in 30 or 40 years.

Do you see a relationship between what we recommend in connection with this particular manifestation of racism as it expressed itself 40 years ago, and the way in which our nation deals with today's manifestations of racism?

MR. MICHENER: Dr. Flemming, you cut right to the heart of the matter. I come from a little town which is distraught over the fact that within recent nights all of the synagogues in the area have been assaulted and defaced, outraged. I would think that our nation is so constructed by history that racism is going to be a crucial problem for the rest of the history of this nation, not just until the year 2010. And I think we had better build all the understandings that we can right now at every opportunity, and I would hope that the Japanese experience in 1941 and '42 would be a protection to those other minorities who might get hit in the years ahead; that we are safe from such explosions, I don't believe at all. And I would expect them to happen in the normal course of events. I think if in today's world you can start to destroy synagogues, are Catholics safe, are black people safe, are the Cubans safe, are the Haitians safe? I don't think so. I think they are safe only insofar as the society determines that "damn it," they will be safe!" and I think we've taken great steps in that, and I'm very proud of our country, for the steps we've taken.

No, I would think that your report would blow some warning whistles.

DR. FLEMMING: Well, my feeling is that we as a nation rationalize or attempt to sweep under the table what

happened 40 years ago, then that will encourage us to continue to rationalize and continue to sweep under the table the current manifestations of racism, as they are experienced by Japanese Americans and other minority groups; and certainly the illustration you just gave us is one that should give all of us to pause.

Thank you.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: First let me take personal privilege in saying how much I admire both of you. I have been an ardent fan of yours for many years, and I want to thank you for many things, most recently Chesapeake, which I thoroughly enjoyed. Just again you indicated the great scholarship, the research that goes into your writings, and I think you have demonstrated that same intelligence in that same scholarship in your presentation to us this afternoon.

I'm deeply impressed as your analysis of the motivations, the racism as you defined it. I would only add the political motiviation that perhaps also went along it because obviously the Germans and Italians lead a great political force in the country than the Japanese, and I'm positive being an old politician myself that political considerations certainly must have crept into the thinking of that time.

I think if it had not been for politics again, we would not have had this commission established today because I think the Japanese Americans have become more a political force now than they were back then, at least in the fact that

there are Japanese Americans serving in the United States Senate and House of Representatives in some relatively large numbers. So those are considerations that we are dealing with in American democracy, and we both know that racism, economics, politics, all enter into the decisions that were made then and that are being made today.

I'm also interested in your theory on the delay of abandonment of the exclusionary order. I think you are quite right, once the government sets up the machinery, the personnel in the camps, it is very difficult for them to turn it back or turn it off. At times when obviously it should be turned off, and I think we erred, and I think the record so indicates that we did in that regard.

I would certainly like you to give even more consideration to your recommendation as to what should be, if any compensation. Mrs. Michener believes there should be monetary compensation, and even in the Michener home I see there can be diversity, which I applaud. You perhaps think that perhaps it should not be individual monetary compensation, but something should be done similar to that, and I think you gave us some examples.

I would hope you might even give more thought to what should be done. I think the question that there was a wrong, though there is some diversity of opinion, obviously there always will be. I think in the main, most people who are knowledgeable believe there was a wrong. They may differ as to the reasons, but when it gets to what can we do to right

that wrong, we have more difficulty, and I think the guts will give this commission to think about than to deliberate and obviously make a decision on than any other part of its report. And I just wondered, sir, if you or Mrs. Michener had thought more in specifics along the lines of what reparations, if any, should be recommended by this commission?

MRS. MICHENER: In terms of dollars?

SENATOR BROOKE: Well, if you pursue your compensation theory, I assume you would do it in terms of dollars.

MRS. MICHENER: Senator Brooke, although I did state that my first preference was, I felt I would recommend to the Commission to recommend monetary redress to each evacuee; however, I would not object to the Commission in its wisdom if they decided against that, to set up a general fund for the Japanese American community, whether it would be in the form of an educational fund or for scholarships or there are some elderly Issei and Nisei still living who might be in need at this time. So I would not object to a general fund.

But monetary compensation, I do believe, is forthcoming.

SENATOR BROOKE: In other words, you think the American people should spend some money in the form of some reparation?

MRS. MICHENER: Oh, absolutely.

SENATOR BROOKE: Rather than just merely an apology, is that correct?

MRS. MICHENER: Senator Brooke, an apology is not enough; it has never been enough. But I think that the United States had better learn that when it makes a mistake like this, it can be very costly, perhaps in the future they won't do this kind of thing. But we did all suffer, and whatever the amount is, as I say, it is probably not enough. But I do believe that monetary redress is an absolute necessity.

SENATOR BROOKE: Mr. Michener?

MR. MICHENER: Senator, you introduced the word "politics" and most adroitly -- I want to take note of that -- you'll hear that in my next version of this. It was a stunning point and I wonder why I didn't think of it.

But therefore speaking to the political point, and the year that we're in, 1981 and soon 1982, and these particular problems of this year and this time, I would say I feel very strongly that if a battle over financial remunerations were in any way going to muzzle this committee or muffle its voice, or detract from the more important thing which it can do, and in the more important statement it can make, I would surrender the monetary consideration at this time. I think that is a matter of politics, and I'm very sorry that Representative Lungren isn't here because if he were, I would say that is his problem, not mine.

My problem is to lay out the great basic permanent things, whether it's 1981 in a bad year, or 1967 in a year of financial largess, the basic problem remains the same, and I call for the nation to make some gesture, but I'm sensible

enough to know that if it is going to fracture your commission in any way that that would be third or fourth or fifth consideration in the report that you should write.

SENATOR BROOKE: Do you have any concerns about a government of the United States of America making a formal apology? Everyone who has testified sort of just glossed over that, the presumption being that it would cost the government to apologize. Do you think it is as simple as that, or do you have any concerns that of the difficulty that might be ours in the recommendation that the government, that a government, certainly the most powerful government on earth would make an apology? Governments don't generally like to make apologies as I'm sure you know very well. They don't like to generally say they have made a mistake, and I just wonder if you have any insight or do you make that presumption like others?

MR. MICHENER: I am impressed by the fact that just about this time last year Roger Mudd, the television announcer, came on delighted over the fact that some 130 years, 120 years after his ancestor, Dr. Mudd, was falsely accused in the death of Lincoln, the government did see cause for saying let's clean this up. Mudd was unjustly accused, and let's restore his good name. That's more than a century later. I don't know what I think about such things, Senator; I'm perplexed.

I would think that a strong statement from your commission, a recommendation that was widely circulated, would get at the basic problem which I see, and that is laying

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out the safeguards against a repetition down the line. If you ask the two houses of Congress to pass a formal resolution, you might be arousing antagonisms that are not necessary. I, myself, am very tough on this; I've written about it, I've laid my reputation on the line, and will continue to do so, because I think if you don't have testimony from relatively free citizens like me, then you are really in trouble. I'm not sure I would force Congress to do what I've done.

SENATOR BROOKE: Getting into political considerations there, if such a resolution were introduced into both houses of the congress, first of all it would have to be sent to a committee, hearings would have to be heard, and there would be great debate, witnesses I presume would be called, assuming this were passed by the committee and came to the floor of both houses. You can imagine what the debate would be, what it would sound like, and what the various factions would be with the resolution; and then the question is, is that going to be sufficient? Will the President of the United States join with the Congress in such an apology?

MR. MICHENER: Senator, if your committee were to come in with a report stating that no harm has been done, that this was a legitimate way for the government to react, that nobody suffered in the camps or nobody suffered economically, I would think that people like me would raise a stink that would be smelled across the continent.

SENATOR BROOKE: Do you think Congress would react differently to such a report?

MR. MICHENER: I think it would be abused in Congress also. If you brought in a totally fake report that is not going to receive any credence in this country from anybody I think the great newspapers would ridicule it. So on the one hand that's one extreme, and I know the make-up of this commission is not going to allow that.

The other extreme is abject behavior on the part of the government, and I suppose the government wouldn't allow that. So we are somewhere in the middle here, and it might be less than what I want, it might be less than my wife wants, but to be craven it can't be, because the evidence won't permit that.

SENATOR BROOKE: Mrs. Michener?

MRS. MICHENER: But if the government is secure in its own feeling towards its own constitutional Bill of Rights, it would seem to me that it would not be too difficult for them to make such a statement. The important thing is that something is in the books, something like this cannot happen again without due process of law. We were not accused of anything because of racial prejudice, political and economic expedience the sad episode took place. But as I say, the hearings on the commission have made a great many Americans who knew nothing about it a little more aware of what had happened and I think this is very important. But also, on the other hand, hearing some of the callers-in to some of the local talk shows, it is appalling in that 30 or 40 years that some of the people never learned anything, and this is sad.

SENATOR BROOKE: Madam Chairman, again I want to thank them -- they call a lot of people great Americans. Let me thank the great American family for their testimony. Thank you very much.

CHAIR BERNSTEIN: Senator Mitchell?

SENATOR MITCHELL: I certainly want to join everything Senator Brooke has said about the Michener family.

I am worried, though, that in the hiatus between the praise of the American people who did not adopt the World War I Chicago bloodletting, and your almost immediate following condemnation of the adopting the evacuation program of 1942, would certainly show the fundamental weakness of the American people; and I would appreciate very much -- you are both students of American morale -- I would appreciate your commenting on why we were so weak at the time that we would adopt such a program for our racist end, of course.

MR. MICHENER: The flood of propaganda that engulfed the West Coast, but California primarily, in the years from 1920 to 1940, took root and bore very bitter fruit indeed; it's as simple as that.

If you today were to allow racism to run riot against Puerto Ricans or Chinese or anybody else for 20 years, 20 years down the line something happens; you are going to react in consonance with that. That's a poison that we allow in our system at great peril, and if we did then and we reveled in it -- I've been reading in preparation for this the newspapers of that time, of that period, and I'm just

appalled at what they got away with, the lies, the deceptions, infamous portrayal of the Japanese.

SENATOR MITCHELL: We discussed here this morning briefly whether the decision on the evacuation was a political or economic decision or a military decision. The name of Earl Warren, of course came in a number of times and I'm wondering, Mrs. Michener, since you were on the ground at that time, if you would believe that blood would have run in the streets had not the evacuation or some measure along that line been adopted?

MRS. MICHENER: No, I do not believe that. I do think that as my husband has stated, that the State of California has had a history of anti-Oriental feeling for the past 60 years or even longer, and with the Hearst press and with the organizations, some of the ones I have mentioned were very prejudiced against Japanese Americans and the Japanese community as a whole. During this period I believe they used whatever was within their means propoganda-wise, and because of economic and also political expediency that they -- with their prejudices, gave this kind of information to Washington. We heard today that Stimson and McCloy were -- and they are, I'm sure, they were good people, but if you have this kind of information being given from the military and fed to Washington, and they felt in Washington that this was -- and they left it to the military -- it was discussed today that it was in the hands of the military primarily, that it was an easy thing for all of these prejudiced groups in California to win at the time.

MR. MICHENER: Senator Mitchell, I think your question probes very deep into American history. When the Union Pacific was built, it was built in large part by the Chinese labor, and in states like Wyoming and California, it was accepted that you could go out and kill five or six Chinese and have a big wing-ding; and the story is a gruesome one.

Well, 60 years later, in dealing with the Japanese, things were infinitely better. It's that same problem from the killing of Germans in the streets in 1917; we did progress -- so at least we didn't do that in 1941. And although the anomosity was great against the Japanese, and in some of these areas, it had subsided from the really awful behavior of 60 years earlier. And I think that's why the people have a right to expect -- and I think that's what a nation has the right to encourage -- that the rape will diminish of these horrible behaviors. I think we can see evidence of it in most of those cases.

SENATOR MITCHELL: It's a pretty slow rate of diminution, though.

SENATOR BROOKE: Are you saying that in response to Senator Mitchell's question to Mrs. Michener, as to whether the blood would have flowed in the streets? I think obviously at least we would get a response that would indicate whether there was justification for protecting the Japanese Americans on the coast in 1942 for putting them into these camps for their own protection. Was it that bad in 1942?

MR. MICHENER: The answer is categorically no. Now I would not rule out individual incidents of somebody getting

drunk in a bar and saying, "Let's go out and shoot up the countryside." They might do that next weekend with anybody else.

SENATOR BROOKE: But that can be handled by the police, and there was nothing that the local police departments of San Francisco, Los Angeles, Portland and Seattle couldn't have handled. Is that what you're saying?

MR. MITCHELL: Certainly, because the police of Denver and the police of Honolulu did handle it without a single incident. Now, granted that the temperatures were higher in California, I'll grant that; but we do have these precedents where the temperatures were also pretty high and nothing developed because society would not permit it at that level.

SENATOR MITCHELL: Did you think part of that was because the specific problems of the war -- did that allow the Sons of the Golden West to become a spokesmen for the thinking of the people of California?

MR. MICHENER: That's a difficult question, Senator.

MRS. MICHENER: But I do think that local prejudices or prejudices of local officials played a great part in making public policy, and that was a very sorrowful thing, public policy was made by them, or fanned by it.

SENATOR MITCHELL: I think this commission and the whole nation needs all of the thinking you can give to where we are today, where we've developed since the days of the Southern Pacific, and where we should develop in the coming few years, We only have a few years, I think, to meet this basic problem.

MR. MICHENER: I would agree with you, Senator. I think that because of the structure of the United States, and because where we are placed geographically, we are going to have racial problems for as long as we exist; and we had better, at every stage of the way, lay out new definitions and new safeguards of what is not acceptable; and I find that our nation is trying to do that. I'm not at all pessimistic on this. I think the whole testimony of the churches, the newspapers, the television, and our leading spokesmen in politics all are testifying that we don't want to go that revolutionary way; we want to work this out step by step, I see no end to this problem. I think it will be with us 30 years from now, 40, 50, it's not going to be an easy solution to the racial problem, and if we allow any aberration to take foothold, we are going to reap a very sad harvest.

SENATOR MITCHELL: Thank you very much.

CHAIR BERNSTEIN: Dr. Flemming, I think, has one question.

DR. FLEMMING: I would just like to pursue one part of the discussion you had with Senator Brooke, particularly the part of it dealing with political climate.

I personally over the years have become very much interested in the role of the commission, such as this one. In a sense it is a citizen commission. There is one certain member of Congress who is a member of the Commission, but in a sense it is a citizen's commission. It has been my privilege to serve on a number of commissions of this kind.

In this particular instance, it has taken 30 years for the Congress to get around to the point where it has decided to establish a commission of this kind, and assigned certain responsibilities to it.

Now, reference has been made to the political climate that exists at the moment. But reference has also been made to the fact -- you and I discussed this -- that we're dealing with some very basic issues that could have a real impact on the way our nation deals with those issues in the future.

Under those circumstances, do you feel that a commission like this should be governed to any considerable degree by the current political climate in terms of its basic recommendations, whether we of course recognize it? But say we are dealing with basic issues, we are dealing with basic issues that are going to be important not just a year from now, two years from now, but five years from now. We're going to make the kind of recommendations that should be made in terms of the long-term interest of our nation. I'm hoping that we and others can rally support for those recommendations, recognizing that maybe it will take a year, two or three years, depending on the political climate. What I'm getting at is whether or not we really should be influenced very much by the current political climate and the kind of recommendations that we make?

MR. MICHENER: Dr. Flemming, I was brought up in the belief that a writer should write sub specie aeternitatis,

that is, under the spotlight of history, and not in the next few weeks. And I belive that wholly.

Any cautionary statement I have made pertained only to the question of a financial settlement in a year when finances are the principal topic in the government, and I'm speaking in deference to Representative Lungren who has been very talkative on that. In other words, I'm saying I'm listening to what he is saying, and see some merit in it.

As to any other aspects of the report and your responsibility, I think that you have to write in a timeness sense, so to speak, the great phrase that Socrates first used. I think that is how society ought to operate when it establishes a commission like this. I say one thing further. One of our humorous commentators on American government said the Supreme Court follows the election returns, and there is some truth to that, but a commission established de novo is not obligated to do that at all, and the better supreme courts don't do it either. And I think, therefore, you fall in that category in both respects. I would hope that your report would reverberate for decades.

DR. FLEMMING: Thank you.

CHAIR BERNSTEIN: I have just one practical question, Mr. Michener.

MR. MICHENER: Yes.

CHAIR BERNSTEIN: Are you working steady? Because if you're not, I think that writer may be sitting-here. We're trying to hire someone.

MR. MICHENER: Oh dear!

CHAIR BERNSTEIN: That's what I said. And I mean that because not only were your words beautifully drafted and put together, but the thoughts behind them similarly.

I know I speak for the entire commission and others, both of you. We thank you for coming before us as you have. Thank you very much. I'll talk to you outside about this job.

Would the Commission stand in recess for 10 minutes please?

(Short recess was taken.)

CHAIR BERNSTEIN: Will the Commission please come back to order?

Senator Brooke has a brief statement that he would like to make, and before he does, in the event that I have overlooked formerly accepting the statement of Mr. Milton Eisenhower into the record, I wanted to do that. I think, as everyone knows, Mr. Eisenhower is in the hospital and is not able to be here, and we have formally accepted his statement.

Senator Brooke?

SENATOR BROOKE: Thank you Madam Chairman.

Madam Chairman, the Commission may recall that I engaged in a colloquy with Mr. McCloy earlier today, and one of the questions raised, and the testimony was addressed to, involved the abandonment of the exclusionary order, and the sequence of events that took place from the time that exclusionary order was issued, Midway, and then recommendations that were made after the military situation which gave rise to the evacuation no longer existed.

I have a letter addressed to the Honorable John J. McCloy, Assistant Secretary of War, War Department, Washington, D.C., dated October 25, 1944:

"Dear Mr. McCloy:

The situation with reference to the Japanese American exclusion has reached a point where there appears to be several matters which can be best solved by personal contact.

I know that you are thoroughly informed of our situation and of the fact that a decision must be made some time in the very near future concerning the abandonment of mass exclusion. It is my opinion that this abandonment will be forced by legal action if a voluntary decision has not been made before legal action forces one. Although I consider it highly improbable, it is possible that the action of the Supreme Court in the Endo case might force such a decision.

Much of the activity of the Western Defense Command during the past few months has been devoted to getting ready for the day when we will shift from mass exclusion to individual exclusion. I have set up a system to handle the situation. While by far the greater part of the preparations for such a contingency are under my control, there are several things now pending which must be decided in Washington. Among these may be mentioned the following:

1. The approval of the general plan to drop mass exclusion which I recommended in my letter of August 8th."

Now, Madam Chairperson, I shall not read the entire communication, but I would ask that with unanimous consent that it be placed in the record.

CHAIR BERNSTEIN: It is so granted, Senator.

SENATOR BROOKE: And then I offer a letter written by -- that letter was signed by C. H. Bonesteel, Major General, U.S.A. Commanding Officer.

And then on the 31st of October, six days later -- that is the 31st of October 1944, a letter was addressed to Major General C. H. Bonesteel, Commanding General, Western Defense Commando, Presidio of San Francisco, California.

"Dear General:

I have your letter of October 26th, in which you discuss the present status of the Japanese American exclusion program and your desire to come to Washington for personal conferences with interested government agencies.

I will be glad to have you and General Wilbur come at any time to discuss these problems, but from what I can judge to be the sense of those who will have the ultimate decision on most of these questions, there is a disposition not to crowd action too closely upon the heels of the election. As many of the considerations will have to be dealt with on high political rather than military levels, I am inclined to think we shall have a great opportunity for constructive plans at a date somewhat later than November 6th. For this reason, I suggest a postponement of your visit until a little later in the month. If this is impracticable for you, while I think we may not be able to make any definite plans at that date, I see no reason why we could not make some progress at least if you got here around November 6th.

Signed, John J. McCloy."

And, Chairperson, I would like to put this in the record. And I would also like the record to indicate that the election of 1944, the national election, was November 7, 1944.

I would also like to place into the record the Francis Biddle Papers, Box 1, Folder: Cabinet Meetings, January 1944 to May 1945, a copy of which the date is May 26, 1944, and it reads as follows:

"The Secretary of War raised the question of whether it was appropriate for the War Department, at this time, to cancel the Japanese Exclusion Orders and let the Japs go home. War, Interior, and Justice had all agreed that this could be done without danger to defense considerations, but doubted the wisdom of doing it at this time before the election.

The Secretary, before, showed me photographs taken from captured Japs, of Japanese beheading American prisoners. If anything like this leaked out, the feeling, of course, would be very intense. At the Cabinet discussions, I suggested that perhaps we could postpone it for some time, the President adding that we could hasten as much as possible, or piecemeal, relocation although I doubt whether this can be much more quickly handled."

And then one further statement contained also in the Francis Biddle Papers, Box 1, Folder: Cabinet Meetings, January 1944 to May 1945, FDR Library, and this is dated November 10, 1944:

I advised the President I thought the Supreme Court, in the Japanese test cases, would turn down the Government, and that it would be wiser for us to turn the Japs back now as the Army had suggested, it having been held up until after election. Everyone, including the President, agreed to this program."

I make no comment, I merely offer these for the record, Madam Chairperson.

CHAIR BERNSTEIN: Without objection, it is entered into the record.

The last witness for today's hearing is Mr. Mike Masaoka. Mr. Masaoka, I understand, is not presenting a prepared statement today. He is here rather as a private person who has drawn into the official decision-making process that we've been talking about for these last two days, in which Congress directed us to look into. In fact, Mr. Masaoka, I'm sure you are not unaware, your name was mentioned by two witnesses who were here, two very significant ones.

Our questioning for Mr. Masaoka will be focused on his direct knowledge of and his communications with government officials who were connected with the Order and the subsequent events.

I hope we can confine ourselves, as we have these two days to those events. As Mrs. Michener put it, what has happened, how it happened, and why.

Mr. Masaoka, and then Mr. Macbeth will commence with the questions.

Do you have an opening statement or shall we go straight to the questions?

STATEMENT OF MIKE MASAOKA

MR. MASAOKA: Madam Chair, Members of the Commission, some of you have received a document as you came inside the door. I would like the privilege of commenting on this, not only for the record, but also for the information of the Commission.

This purports to be a message from the National Council for Japanese American Redress, and it says that it is public knowledge that the Commission was conceived by me. This is not true.

The fact are, that long before legislation was introduced at a time when I was in the hospital, I believe, or recuperating at home from a heart attack, a number of Japanese Americans met with the Japanese American delegation of the Congress of the United States; and there they did discuss this problem of so-called redress. At that time, since two of the members of the delegation of five were from Hawaii, they looked at a number of commission bills and others, such as the Hawaiian Native Lands Commission as an example of what the members of Congress might consider.

And the fact is that a member of that delegation, I understand it was Senator Inouye, suggested that Congress would more likely be able to support a commission bill than any other type of bill.

It so happened that this particular national council and some other groups have long believed in individual compensation.

As a matter of fact, so did I. But many of us who worked on the Hill believe that the mood of Congress being what it is, something less generous than we thought would be appropriate would be considered by Congress.

Nevertheless, the so-called Lowry Bill was introduced, and this Bill provides for approximately $15,000 for every evacuee, plus $15 per day. Now, many of us objected to this kind of legislation because it would mean that those who stayed in camp the longest would receive more, and the youngest men, for example, who volunteered to go into service to fight for their country and for the rights of their parents and their posterity to live in these United States would be treated unequally with others.

It would mean that students who left the camps to go on to continue their education in high schools and colleges would also be denied full recovery; and I could go through a long list of other reasons why we rejected this particular proposal.

For instance, this bill provides that the heirs of those who might have been in camp would receive compensation if the actual evacuees were now deceased. And they have gone to the extent in the Lowry Bill of providing that some people who were never in the United States such as residents of Japan who, by accident of birth, happened to be related as an heir to an evacuee would be compensated this $15,000, plus $15 per day spent in camp.

Many felt that legislation of this type was not justified, and we also believed that as Mr. Michener and other witnesses pointed out, the Commission approach was much better, for the Commission would examine all the facts, and based upon the facts it would recommend to Congress what it thought to be appropriate. If this Commission decides on an individual compensation program, it was felt that if it were endorsed by distinguished groups of American citizens, such as those of you serving on this Commission, it would have a better chance to be accepted by Congress than just some legislation put in by a junior congressman from Washington.

Moreover, we felt that the most important mission for the Commission is to officially recognize the loyalty of the American Japanese in World War II, and I know this strongly because I served in the war with Senators Inouye and Matsunaga. My brother-in-law is the first Japanese American congressman from California, Norman Mineta. I worked in the campaign to secure the election of Robert Matsui, also of California, whose one ear is deaf because when he was an infant in the camp at Tule Lake, there wasn't sufficient medical help to correct the malady in his ear. All are most concerned that the whys, wherefores, and whos of the World War II experience are definitively recorded. I could go on, but the point is this, if the public knowledge which this council purports to have is as unreliable and inaccurate as what they say about the conception of this commission, I would suggest that the commission take another look at it.

But beyond that, this is not an adversary proceeding, this commission is fact-finding; this commission is interested in facts, and it so happens that perhaps of all the remaining Americans of Japanese ancestry who are living today in the United States, by sheer accident of longevity, if you want to call it that, I may be perhaps the only person who sat in on some of these historic decisions; and a fact-finding body, I think, would be interested in learning what I remember.

For example, I sat through the proceedings yesterday and today and I heard the testimony of distinguished men whom I knew back in '42. They may have intended what they said, or expressed their intentions of how the camps were to be run, but I can tell you from personal experience, and from facts which have been related to me, that in many cases the actual camp life and what happened did not come up to the intentions of the high level officials.

Senators Brooke and Mitchell are well aware of the problems in all legislation and regulations. The framers may have had the finest intent in the world, but they cannot necessarily control those who carry out or implement those particular laws or regulations.

And with due credit to Mr. McCloy and others, I say for the record, while their intentions may have been the most noble and honorable, unfortunately the practice was not up to par in all cases.

So I'm wondering what this council wants. Do they want to deny this commission the information I may have by

denying me the right, or questioning my right, to appear before you? Is the council trying to deny the commission the opportunity to ask me about some of these questions that have been asked on the west coast, such as why an organization, a voluntary organization like the Japanese American Citizens League had to take over, because no one else would, the leadership of a very confused and chaotic community? Why an organization of young people averaging less than 20 years of age in JACL had to accept the awful responsiblity of deciding whether they should cooperate with the Government or not? Why?

Well, you and I may have our own explanations, and I can only say that as far as the so-called 25-page letter referred to by this council -- something that I wrote to Milton Eisenhower -- yes, I wrote the letter, I might not write the same letter today, or use the same words, but before this Commission and before the American people, I say that I am not sorry that I believed in the United States, and I was patriotic enough to carry on what I thought best for this Nation and for my people.

Mr. Frank Chinn, who accused me of super-patriotism, is not even of Japanese ancestry; he says he is an historian. He did not live in pre-war America, but he ought to know that the aim of most sociologists then in the great American dream was to assimilate all of the immigrant generations into what is called the American melting pot concept.

Today, talk about ethnic pluralism, and maybe in those terms perhaps what we proposed 40 years ago might not

look so good in the cultural thinking of those days.

Let me say also that the accusations made against me personally and against the JACL organization read like a fantastic movie scenario that some playwright decided to write, and he selected and chose some words out of context if you will in certain places to create his fantasy. He certainly didn't produce all the facts that are available in order to create the imaginative climax that he wanted for his drama.

I say for the record, and I repeat, not once has this Mr. Chinn, who testified in Seattle, talked to me about any of the events to which he refers, nor have any of the officers of these various organizations who are now questioning what the JACL did. He could have verified the facts but did not for reasons of his own. We in JACL point to the status of Japanese Americans today as vindication of our wartime leadership, emphasizing that then and now none have come up even today with more viable alternatives.

I could say much more, Madam Chair, but with that, let's proceed.

CHAIR BERNSTEIN: We will proceed with the questioning and I might say, and I'm sure I speak for the Commission, neither the JACL nor any other organization is on trial here, nor will we inquire into things that they have or have not done that do not involve our mandate.

Mr. Macbeth?

However, since you referred to a document, Mr. Masaoka, do you want to offer the document into the record?

MR. MASAOKA: I do.

CHAIR BERNSTEIN: Is there any objection? If not it will be accepted into the record.

Mr. Macbeth?

MR. MACBETH: Mr. Masaoka, there are a number of areas that I would like to take up in the history of the evacuation.

The first is to go back to the issue that Mr. Michener and Mrs. Michener in particular were discussing earlier, and has been a theme in the last day or two, this question of possible civil disorder, and blood-letting, barn burning, and there have been a lot of phrases used for it; but I think it is the type of disruption and overt direct hostility toward Japanese aliens and Japanese American citizens that has been discussed a number of times; and I would like to get your theories of what that kind of situation was like, so that we have an additional judgment as to what the circumstances in the early months of 1942 were, particularly on the West Coast.

MR. MASAOKA: I must confess that it is with the wisdom of hindsight that we looked at the record. There is no question that there was almost a century of anti-Orientalism that developed on the west coast, and that about 50 years of that was devoted and concentrated on those of Japanese ancestry. Yet at the time just before Pearl Harbor, most of the politicians and most of the people in the area respected Japanese Americans to the extent that we were lobbied as exemplary citizens and aliens. Though our parents could not

become citizens because of federal laws against their naturalization, they contributed their fair share to the purchase of war bonds and things like that.

I would say in my judgement that if the Army had done its job, as I now see it, there could have been and should have been no bloodshed. Why do I say this? If Californians, Oregonians and Washingtonians were so blood thirsty for the Japanese, why is it that on the night or even the day of December 7, 1941, when the actual attack took place on Pearl Harbor, there was not a single act of violence reported anywhere on the Pacific Coast against any person of Japanese ancestry?

As a matter of fact, the first incident of violence that we find recorded anywhere did not take place until December 23rd, and then only involved one person -- a 30-year old Nisei who was found dead on a Los Angeles sidewalk.

And on Christmas day 1941 a few Japanese residents were manhandled by a group of Filipinos in Stockton, with one death resulting therefrom.

It was not until much later that there was any thought or expression that there should be any mistreatment of the Japanese and Japanese Americans. As a matter of fact, I recall very clearly that this Curtis B. Munson who has been referred to from time to time, came to JACL headquarters late in the summer of 1942, and I remember that --

MR. MACBETH: Of 1942?

MR. MASAOKA: I'm sorry, 1941 -- in the summer of 1941, and was my first contact officially with the United States Government. He came in and for two days he discussed with and Saburo Kido, an attorney and then the national president of the JACL, what could be done to prevent any violence against the Japanese people in case there might be war between Japan and the United States. And this was in the summer of 1941.

As a matter of fact, he submitted in late November as I heard the testimony, the so-called Munson Report, and on January 17, 1942, this particular Munson Report was presented to a joint congressional committee investigating the attack on Pearl Harbor. It somehow received no attention whatsoever, even by the national media or by members of congress or the government of the United States.

Much of the development of the threats of potential danger came about by inadvertence, I believe, when on December 15, 1941, Secretary of Navy Frank Knox returned from a visit to Hawaii. He held a press conference, and at that press conference he talked about, and I quote: "The most effective fifth column work in the entire war was done in Hawaii, with a possible exception of Norway."

This mind you, was the Secretary of Navy, and based upon that, and from about that time on, various groups began to call for our -- what ended up as mass incarcerations.

Curiously, I think it ought to be pointed out that when the Tolan Committee came out to the west coast in February of 1942, we in JACL were told that that committee was to come

out to investigate the possibility of violence against us, and what ought to be done to relocate if necessary the Japanese and Japanese Americans.

Now, the first hearing of the Committee did not take place, however, until February 21st in San Francisco. Yet the President of the United States signed so-called Executive Order 9066 on February 19th.

Now, I don't want to impugn members of Congress, but just as the Secretary of Navy alluded to things that did not actually happen in Hawaii, I remember being a scared kid 26 years old, having the chairman of the congressional committee saying: "Mr. Masaoka, do you know what your people did in Hawaii?" And when I started to protest that they were not my people, he brushed that aside and said, "You people sabotaged the effort at Pearl Harbor, you drove trucks across the highway so American troops could not get to Pearl Harbor; you put arrows in the cane fields pointing to Hickam Field," and he claimed, "We have seen pictures."

Well, the facts as now known are, there were no such pictures. And the story of Secretary Knox is explained by the fact that he didn't mean Americans of Japanese ancestry, he meant maybe the Japanese Diplomatic Corps and the Consular Corps in Hawaii.

I ask this Commission, are our liberties to be so tenuous that in times of hysteria and even of hate, we are going to depend upon lies, rumors, to validate the treatment of any others, as was done to Americans of Japanese ancestry?

I have one other comment to make generally in regard to this. General DeWitt, on March 2, 1942, issued Public Proclamation Number 1 which designated as Military Area 1, the western halves of Washington, Oregon, California, and the southern third of Arizona, and declared that in time the Japanese people would all be removed from that area -- "aliens and non-aliens alike."

Now, I wish to point out at this juncture that Colonel Bendetsen, who was then in charge of the WCCA, is the one who coined the word for the American public "non-aliens" to describe us who were born in the United States and were citizens. And thereafter the Army officially started using the word "aliens" and "non-aliens" of Japanese ancestry.

Be that as it may, in the beginning as Colonel Bendetsen pointed out, a system of voluntary -- and I use that word advisedly -- migration was established. General DeWitt invited us Japanese Americans, at our own expense, without any protection whatsoever, to leave our homes and associations and go find our new homes somewhere else outside the prohibited zones.

Then, on March 27th, and effective on March 29th, the General issued Public Proclamation Number 4, forbidding further voluntary migration from the west coast. I could speak a lot about the use of the word "voluntary" in this connection, but I will leave the true meaning to your judgment.

It was not purely coincidental, however, on June 2nd, exactly three months after he issued Public Proclamation

Number 1, that General DeWitt declared that the eastern half of California, to which he had invited the people to migrate "voluntarily," was to be shut down to further travel and declared a part of Prohibited Military Zone 1. The eastern halves of Oregon and Washington, and the northern part of Arizona were left untouched as Number 2 areas with unrestricted migration.

I ask, is this not a simple case of singling out the Japanese for discriminatory and racism treatment? As a matter of fact, I heard the generals and most of the former government witnesses talk about the fact that these camps were intended to protect us temporarily and not detain us permanently.

I wish to testify that from my very first meeting with any Army officer, or any U.S. government official, as to the best of my recollection, the only words I heard were military necessity as the reason for exclusion and evacuation and it was based upon that military necessity that the Japanese American Citizens League, among others, agreed that we ought to cooperate -- not in the decision for evacuation, or the signing of 9066, but to cooperate in leaving our homes, as a measure, if you will, of helping our country at a most difficult time.

Now this was a very difficult decision, and no real violence or any civil disorder developed out of this cooperation, but I would like to say, I believe, and I think most historians would bear me out, that because the Japanese American population

and our alien population were willing to take a "beating" physically, mentally and everything else, to go to these camps we gained the respect and the confidence of our fellow Americans.

By the way, we thought these camps were supposed to be temporary camps, relocation centers, and not detention centers. It was not until we were moved away from our homes and associations and placed in assembly centers that we first heard the fateful phrase "you are going to be detained there."

But because of the mistreatment of the Japanese Americans and the way they went to camp in spite of constitutional doubts, because of the gallant records of the 442nd Regimental Combat Team and Japanese American troops in the Pacific, I think some good came out of this total experience. And if I'm asked a question later on, I will go into this aspect.

But my considered judgment as a lousy sergeant who volunteered for service in the United States Army -- my military judgment now is that there would have been no outward physical violence against those of Japanese ancestry if the Army and the local police agencies did what they did for the first three weeks after Pearl Harbor, if they had provided the kind of protection that they had provided our communities so that there was absolutely no -- not a single act, mind you, of violence against our group until the latter part of December; and in hindsight, I wonder why didn't the government do this?

MR. MACBETH: Let me pick up for a moment on this question of the detention camps which I was asking Mr. Glick about earlier today.

What were the circumstances and when did it become clear to the evacuees that there would be leave regulations of the sort which you described; in other words, what Mr. Ennis called yesterday the shift from voluntary center to one where people were not allowed to leave until they met their requirements of the regulations?

MR. MASAOKA: That did not develop until toward fall when many farmers were short of labor to harvest their crops. They came to the WRA and to the Army too and the Farm Security Administration, asking if people could be released to work on the farm. This was the first leave program.

Thereafter the government decided that, and this is a part of the JACL recommendation, that students qualified to go onto education should be allowed to go out of camp and go to school. In this instance, I would like to point out without attempting to say anything anti-religious, but when the first meeting was held in Chicago in the fall of 1942 for the Student Relocation Council, the Christian churches kept pointing out that they were putting up the money and therefore only Christians should be allowed out of camps to go to colleges. Besides, they could vouch for the loyalty of the Christian Japanese Americans. And it was the JACL that stood up and said to them, "If you're Christians at all, and if you believe the American principle of separation of church and state,

if you're truly Christians, you will let qualified Buddhists leave too and help pay their educational expenses." So first were agricultural workers; second were the students; and third came the so-called work clearances that Mr. Glick explained in considerable detail. I do, however, remember quite clearly that there was not much speed in these clearances. Some people, I think waited over two years for their clearances. And the fact is that the Eastern Defense Command under General Drum had certain strict clearance conditions of their own. That is why relatively few Japanese Americans came out to school or came out to relocate in the East. Most of them relocated in the Midwest, and if you will, even in the South because there the commanding generals weren't opposed to the Japanese.

MR. MACBETH: Is your understanding that there were long delays of the clearances, primarily for loyalty and security investigation and not for the finding of possible jobs or community acceptance?

MR. MASAOKA: That was my understanding. As a matter of fact, the JACL put up special offices and paid special officers who went around looking for jobs and housing. The big problem, I recall, was loyalty, and it was stressed over and over again, that such and such couldn't be let out, for example, because maybe his father was in the Russo-Japanese War, or the family had a set of special Japanese calligraphy in their home.

Mr. Glick himself admitted that some of the reasons for holding these people up were fantastic.

MR. MACBETH: Let me just go back to this one thing and clear that it was the initial program of the Army. I wanted to confirm this was your understanding of the time that once off the west coast the Japanese aliens and Japanese American citizens would be free to move from the relocation centers, but thereafter, in the summer of 1942, the leave regulations of the War Relocation Authority were opposed and shifted from this so-called long-term program to a compulsory program and a detention program, is that correct?

MR. MASAOKA: Exactly. When we protested that detention program, we were told that the centers were going to be temporary way stations as it were, from which we could come and go. And I might add for the record, that JACL met with the Army on many occasions. We asked them to provide custodians for our property, which they did not provide. We asked for certain scheduling for farm crops to be harvested as the crops became ripe, so that the food for victory could be saved for Americans. This was not done either.

We were led to believe that prevailing wages would be paid; but somewhere along the line, somebody decided we should get only $12, $16 and $19 for a month's work.

MR. MACBETH: Since Mr. Eisenhower isn't able to be here, let me bring to your attention the fact that we have been talking to him in the last week in preparation for these hearings. He said it was his idea that Congress decided that

the wage to be paid should be no more than that paid to people in the Armed Services. Is that also your memory of what happened?

MR. MASAOKA: No, I think -- all I know is that we talked to Mr. Eisenhower and Mr. McCloy and others, and we discussed whether the internees should at least be paid the prevailing wage, and then they said prevailing wage varies so much in different localities, how would we determine it? So I remember I suggested at that time we ought to go the WPA wage scale.

Now, if Congress did set wages, I'm not familiar with them. But I do know that without giving us any reason, all of a sudden we discovered the WRA wage scale had already been set.

MR. MACBETH: What explanation did WRA provide as to why to impose the leave regulations that began there? Were you given any explanation?

MR. MASAOKA: Could you repeat that again?

MR. MACBETH: When the WRA imposed the leave regulations it really shifted those detention programs where you had to meet the terms of the leave regulations to leave the camp. Did the WRA provide any explanation of what the basis for that action was?

MR. MASAOKA: Yes. I think it was Mr. Eisenhower who told a number of us that the reason was this meeting in Salt Lake City of the twelve governors of western states. They all, with one exception, Governor Carr of Colorado, expressed animosity toward Americans of Japanese ancestry with alien parents.

As a matter of fact, in the so-called period of voluntary migration, some of the people who left voluntarily seeking places in Texas or Utah, for instance, as they crossed the border of states they were come upon by vigilantes who overturned their trucks and even burned their vehicles and hurt the men and women; and there was some violence there, violence which we thought could have been avoided because we urged with the voluntary migration movement that the Army provide protection, and they didn't.

In other words, here is where the idea perhaps of protective custody arose, because of possible violence and other attacks. But I would like to say that my recollection is that -- well, in Utah, for example, I could not imagine any person, white, black, or anyone trying to invade that horrible salt desert where the Topaz camp was built. I can't imagine why the people on the outside would want other people to come into camp. It was terribly hot or cold and unwelcome.

As a matter of fact, to the best of my recollection, and I must admit that perhaps my recollection is bad on this point. In certain of the camps, though, the MP's, the so-called soldiers, were on the inside and in other instances they were on the outside. Regardless, they were armed with rifles and often with bayonets.

MR. MACBETH: I also asked Mr. Glick earlier today about the loyalty questionnaire and the so-called loyalty questions 27 and 28, and he was unable to give any source of

where those questions came from. Now there has been some suggestion from time to time those questions were taken from various voluntary loyalty oaths from the JACL.

What is your recollection to that? Was it the JACL was consulted about the loyalty oath and what role if any did they have?

MR. MASAOKA: No, but I think this particular answer requires considerable explanation.

The JACL did promote and ask everybody to sign a very brief loyalty oath which was very much like the loyalty oath that various government officials take; and we did this for the same reason -- I've forgotten his name, this Swedish person who went to Austria to try to save the Jews.

MR. MACBETH: Raul Walenberg.

MR. MASAOKA: We wanted something that would make it easier for the voluntary evacuees to get through their various territories, something that would satisfy the local sheriffs that these people were loyal Americans. Since neither the Army nor the WRA would give us anything of the kind, we, in order to protect our group as best we could and to provide safe passage, did develop this oath.

Now, as for Questions 27 and 28, we did not see those until they burst on the camps, and I believe that Mr. Dillon Myer is quoted as saying when we questioned him very strongly on this, he said, "I wish we had shown them to you people," and why is that -- well, in my case, by the Japanese American law, I am a dual citizen. I was born before January 1, 1924,

which made me a Japanese subject. And I remained a Japanese subject because my parents didn't take the trouble to strike my name from the rolls of the Japanese consulate. I was an American citizen by virtue of birth here. I would never sign or even consider an oath which talks about allegiance to the Emperor of Japan because I deny that I ever had that allegiance. And because of this kind of thing, Questions 27 and 28 were never proposed to us; we had been the first to denounce it.

As a matter of fact, I think you will find in the record that we filed many letters of protest on this matter. I might say I recall in Judge Marutani's question about what happened to Selective Service people, I think I remember this a little bit better than Mr. McCloy because I was among those that were involved.

A great number of Japanese Americans were discharged after December 7, 1941 for the convenience of the Government. It was left up to the commanding generals of certain areas to decide what they would do with their troops under their command. Selective Service, on the other hand, decided that since the Army had or was planning to move us out and didn't move us out, that they could not rely on us as troops, they gave us the 4-C classification, which was originally intended for enemy aliens, mind you. We protested that, and instead of changing our classification, they changed the designation to Undesirable.

And I must confess, as recognized at least as the first volunteer for the Japanese American Combat Team who had

four brothers with me, that it was not very nice to be an American citizen and have the Army of the United States declare that you are an enemy alien first, and then that you are undesirable afterwards.

Be that as it may, there's one other comment I must make for the record regarding Mr. McCloy's testimony. Asked about the Battle of Midway, Mr. McCloy said that even he -- and I'm shocked -- even he would say that if the Battle of Midway had gone the other way, maybe we in the 442nd might have fought for Japan.

I call to the attention of this Commission and for the record, that even from before the outbreak of the war, the Army had devised a method of determining whether certain Japanese Americans were loyal, and if these Japanese Americans could speak or read or write Japanese sufficiently well, they were to be used in so-called Military Intelligence Service, and from before Pearl Harbor day, we had Japanese Americans in the Army of the United States, and when Japan appeared to be winning the war at Pearl Harbor, it was the Japanese Americans who captured the first Japanese enemy and the first Japanese submarine.

SENATOR BROOKE: May I interrupt you here? I don't recall that testimony, in all fairness to Mr. McCloy, that he actually said the 442nd may have gone the other way. I think he said some Japanese may have gone the other way. You may be right, I may be right, but I think the record ought to be searched to find that out, because I'm sure you would not

want to put those words in his mouth, because he was very high in extolling the virtues of the 442nd and the 100th Battalion.

MR. MASAOKA: As a matter of fact, I remember him testifying before the House Judiciary Committee and the Seante Judiciary Committee, in which he said that of all the public accomplishments, if he could be remembered for one thing, it would be for his helping to establish the 442nd.

SENATOR BROOKE: He said that here. I may be wrong, but my recollection is that he didn't --

MR. MASAOKA: Well, let the record show that it is my judgment that the average Japanese American would not, regardless of what happened at Pearl Harbor, have turned against the United States. I had this faith then and I have it now; and I say, I think it's too bad Mr. Goldberg isn't here, he's the Army expert and a former commissioned officer -- it is difficult to volunteer at any time, to go out and to fight in combat against the enemy. How much more difficult do you think it was for us to go out and volunteer under the suspicions that this Army we wanted to fight for had placed us from behind barbed wire fences. I lost a brother, I have another brother who is 100 percent disabled. And when you have people like this, I say that the basic loyalty cannot be questioned.

MR. MACBETH: I would like to conclude with one more question concerning the period after the war, and particularly the Japanese American Evacuation Claims Act. It is my understanding that you are familiar to some extent with the background of the

passage of that statute, and since that is also part of the history that is important to the Commission, I would like to get your recollection and knowledge of the time considerations that went into the formulation of the passage of that statute.

MR. MASAOKA: The Evacuation Claims Act of 1948 was initially pushed by President Truman himself as a kind of "apology" if you will, to the Japanese treatment during World War II. Not only that, but both the Department of War -- or, I'm sorry, the Department of Defense by that time, both Houses of Congress said while everybody suffered, as Mr. McCloy said during the war, the Congress of the United States and the President of the United States and the Department of Defense at that time -- and it's in the committee report; I wish I had it with me, it said that the Japanese Americans were forced to suffer a unique hardship visited upon no other group of Americans, and this was their rationale for passing this act.

But with all due respect to the Attorney General, when attorneys write a bill, they really write something; and we discovered that this bill was so technical, so legalistic, so difficult to administer, that at one time it cost over $2,000 to pay for a claim of less than $400.

We had claims of up to $3.5 million. It moved so slowly that time after time we went to Congress to ask them for a more generous kind of interpretation, and what do you think Congress gave us? Congress said, well, it's costing a lot of money, and we feel that we ought to be more generous and remedial in our thinking. So they concocted -- I shouldn't

put these words in -- but this is what resulted regardless of their reasons. They placed an amendment to this bill, which said that the Attorney General could compromise and settle any claim up to two-thirds of the value, compensible value of their losses, and their losses were confined only to real property; or $2,500, whichever was less.

Now, because at that time the people from the camps were trying to go back home they needed the money, a great majority of the cases were settled on this compromise basis, and we know of instances where claims reaching close to $1 million, maybe over a hundred thousand, were compromised and settled for just $2,500 because when you are only earning $12, $16 and $19 a month and when you have to return from New York to California, or from camp to California, every dollar counts.

I would urge this commission to look at that history. Congress held two hearings on it, agreed that it was ungenerous, but unfortunately the temper of Congress, in spite of the fact we had suffered uniquely, was not quite generous enough to give us a better bill.

MR. MACBETH: One final question on this financial aspect. In 1954 you testified before a Congressional committee saying the Federal Reserve Bank of San Francisco was generally in charge of some of these properties estimated a loss of $400 million in natural money losses as of evacuation. That's a number that has been used very frequently by a great many witnesses, and we've had enormous difficulty in finding any

statement that would directly be attributed to the Federal Reserve Bank of San Francisco in which that number was used.

What was the basis which you used that in testifying before Congress?

MR. MASAOKA: As I recall, when we were meeting with Mr. Drews and certain people from the Farm Security Administration, the people from the Federal Reserve and the Army were urging a system of property custodianship, based upon World War I experience of custodians. We thought that the Government ought to provide protection for the property. And at that time one of the people -- I think it could have been Milton Eisenhower -- turned to the representative of the Federal Reserve, and he gave the figure, as I recall, of $400 million.

Now as I look back, I think the Federal Reserve representative meant $400 million only in and around the San Francisco Bay area of northern California because as I look back and see the number of losses that were sustained, and read the testimony of the people involved in this, where Long Beach itself claimed over $1 billion, that $400 million referred only, I think, to the San Francisco Bay area. I have never seen it repeated in print, and I know it was given because, well, it was used for quite a while, not only by me but by others, and then it disappeared and now no one can find a record of it.

But, Mr. Macbeth, in wartime, a lot of records were not kept; a lot of other records I know of my participation in various places - I don't say they were altered, but they were lost. As a

matter of fact, the records of the Japanese American Citizens League were taken by a House Un-American Activities Committee, and they tried to use one against our organization by saying that we were working too hard to try to influence the government of the United States, and that is what I thought democratic organizations were supposed to do. But these records of our -- they were valuable records. When a more friendly chairman, Francis Walters of Pennsylvania, became Chairman of the House Un-American Activities, we asked that he return these files to us, and he ordered his staff to find the papers and return them. They couldn't find them. They were never returned.

MR. MACBETH: Madam Chair, I believe we are on the reporter's last tape, and under those circumstances I think I should desist from questioning and give the other questioners a chance.

CHAIR BERNSTEIN: Thank you. Indeed the reporter is on his last tape.

Are there any questions from the Commission?

Father Gromoff?

FATHER GROMOFF: No.

CHAIR BERNSTEIN: Judge Marutani?

JUDGE MARUTANI: No. I just simply want to comment to Mr. Masaoka that I pride myself in trying to do a lot of reading and learning, and I can tell you that I continue to learn listening to you; thank you.

CHAIR BERNSTEIN: Dr. Flemming?

DR. FLEMMING: I also would like to express my appreciation for your testimony. It has been very, very helpful. It has certainly added to my background, and I have one exchange as to whether the Congress stepped in on the prevailing rate or not, I thought I recalled the statement in Milton Eisenhower's testimony on that. He said that the troublesome problem of pay came up in a press conference, and I said we were considering prevailing wages for all positions. This brought a storm of protest from members of Congress who demanded the pay not exceed that provided for privates in the Army, and politically we had to accept this.

MR. MASAOKA: But Congress paid $21 --

DR. FLEMMING: I know this.

MR. MASAOKA: And the Army paid the fee of the WCCA lower than the WRA. They started at $8 and ended at $16.

DR. FLEMMING: Congress didn't pass a law but they expressed themselves.

CHAIR BERNSTEIN: Senator Brooke?

SENATOR BROOKE: No questions.

CHAIR BERNSTEIN: Senator Mitchell?

SENATOR MITCHELL: No questions.

MR. MASAOKA: May I request that if Mr. Macbeth or any of the other members of the Commission have any questions they would like to have me answer, I'd be very happy to submit it in writing.

MR. MACBETH: I would like to say that obviously you recall the day you were called to testify about the

historical circumstances, and that there may well be views as to various actions the Commission should take and so on with the JACL organization that you'd be interested in presenting, and obviously like any other organization, the Commission welcomes anything of that sort; and we would ask you to do as much as possible in writing because we are limited in the amount of hearing time we have, and that obviously is not the purpose of having the hearing here today.

MR. MASAOKA: If I may, Mr. Macbeth, I would like to refer this Commission not to the hearings that you had on the repeal of Title II, but to those hearings held before the House Constitutional Rights Subcommittee in repealing Title II, the Internal Security Act of 1950. Congress and the subcommittee wrestled with the problem of what could be done in the future to prevent another occurrence such as evacuation; and it is interesting to note that Congress used this language, quote: "No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress."

Now, you may recall that the evacuation orders were validated by Congressional action, but the congressman who authored this said -- this is before the fact -- "if we have to approve Congressional action before the President can issue it, maybe it will be some kind of a deterrent."

SENATOR MITCHELL: That was a hearing on what act?

MR. MASAOKA: This is on what became Public Law 92-128 of the 92nd Congress. The act itself was HR 235, and was signed by the President on September 25, 1971.

SENATOR BROOKE: Madam Chairperson?

CHAIR BERNSTEIN: Yes, Senator?

SENATOR BROOKE: I just have one further communication I would like to introduce into the record. It's from the War Department, Chief of Staff, Washington, D.C., May 13, 1944 -- a memorandum to Mr. McCloy:

"Memorandum for Mr. McCloy:

I have gone over your memorandum of May 8th concerning the return of persons of Japanese ancestry to the West Coast and related papers. In my opinion the only valid military objection to this move is the one presented by G-1 that the return of these people to the West Coast will result in actions of violence that will react to the disadvantage of American prisoners in the hands of the Japanese. There are, of course, strong political reasons why the Japanese should not be returned to the West Coast before next November, but these do not concern the Army except to the degree that consequent reactions might cause embarrassing incidents. In my opinion, we should not go to Cabinet discussions without first clearing the matter with the Navy. Therefore, I suggest that Mr. Stimson, or your representing him, go over the matter with the Secretary of the Navy. This is particularly important as the development of the campaign in the Pacific will be increasingly naval with consequent increase of West Coast installations and concentrations.

And it is signed George Marshall, Chief of Staff."

Madam Chairman, I ask that this communication be

marked one in that line of exhibits that I have introduced and the others will follow in sequence.

CHAIR BERNSTEIN: Without objection they will be so accepted.

Mr. Masaoka, than you very much for your compelling testimony.

I would like to thank everyone here today and those who were here yesterday as well.

I think all my fellow commissioners would join me in saying that it has been an enormously useful productive two days, which I can't help but mark as a great historic event.

Thank you very much. The Commission stands in recess.

(Whereupon, at 6:35 p.m. the Commission was recessed.)

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In the first place, the shock of the Japanese attack on Pearl Harbor and its devastating results can now be described but I doubt they can really be felt as they were then. Our entire battle fleet had been obliterated at one blow, delivered in the form of this outrageous surprise attack. With it our defenses throughout the Pacific from Hawaii to our West Coast suddenly became seriously impaired. This was, of course, the object of the attack. To put it mildly, our sense of security was stunned and, coming at a time when we were greatly preoccupied by the aggressions of another great power on the Atlantic side of the world, the implications were far reaching. In fact, Hitler's Germany declared war on this country practically simultaneously with the Japanese attack.

Over a substantial period of years the West Coast and, indeed, the entire country, had been agitated over the steady expansion of Japanese power in the Pacific. The nature of the so-called "Yellow Peril" had long been the subject of press comment on the West Coast while clear evidence of active Japanese aggression prior to Pearl Harbor stirred more immediate and substantially sharpened concern.

By chance, I was the only senior official in the War Department that Sunday morning when the news of the attack arrived and I immediately began doing what I could to implement plans for the security of the nation's capital which this startling event demanded. Shortly thereafter, urgent reports of the concern of the West Coast for its safety began to come in. These reports were addressed to the White House, the Congress and other government agencies, including, of course, the War Department.

Governor Warren of the State of California wired and phoned his anxiety for the security of his state. The Commanding General of the Department of which the West Coast was a part, General DeWitt, shortly called attention to the threat presented by the concentrated Japanese-descended population on the West Coast. As I recall it, General DeWitt subsequently notified the War Department that he could not accept responsibility for the security of the area he commanded unless steps were promptly taken to control this population with its threat of subversive action. I think it was possibly this accident of my being present at the Pentagon that morning dealing with local security problems which caused my subsequent involvement in the security problems of the West Coast.

This is not the time to recount all the pressures and considerations which set in motion the government's relocation program, even if it were possible to do so. I do recall that among

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legislation, and appeared at least once or twice in support of it. Substantial testimony was taken regarding the relocation program, and some legislation was passed. It does not seem necessary to go over the same ground again now.

I hope the Commission will find, as I believe to be the case, that the whole operation was as benignly conducted as wartime conditions permitted. I gained the impression, after making considerable effort to follow the destinies of those who had been relocated, that on the whole the deconcentration of the Japanese population and its redistribution throughout the country resulted in their finding a healthier and more advantageous environment than they would have had on the West Coast following the Pearl Harbor attack and the reports of Japanese atrocities in the Philippines and the Southwest Pacific.

This country, as well as our Allies, was forced to confront a number of unpleasant wartime dilemmas and the Japanese situation was one of them. My belief and hope is the Commission will conclude, after an objective investigation, that under the circumstances prevailing at the time and with the exigencies of wartime security, the action of the President of the United States and the United States Government in regard to our then Japanese population was reasonably undertaken and thoughtfully and humanely conducted. There has been, in my judgment, at times a spate of quite irresponsible comment to the effect that this wartime move was callous, shameful and induced by racial or punitive motives. It was nothing of the sort.

One fact I would urge the Commission to refer to if any report is made in connection with its examination of the relocation program is the role which the 442nd Combat Team played in establishing once and for all the fundamental loyalty of our Japanese population. As a result of many appeals made to me by members of our Japanese-descended population after the attack on Pearl Harbor, I sought and obtained authority from the Army to permit these groups to form and serve in an integrated combat unit in our Armed Forces. This, at first, encountered some opposition and it was not easily overcome. However, such a unit was formed as the 442nd Combat Team, and the famous 100th Battalion from Hawaii was a part of this unit. Composed of Americans of Japanese descent, it became one of the most highly decorated combat organizations in the entire Army. It served with great distinction in a number of hotly contested European campaigns. Its record of courage and military achievements was spectacular. The reputation it earned did much to rid the country of the unjust discriminatory laws and prejudices to which, at one time, our Japanese population had been subjected.

→ 67%

Whether the then-existing government acted wisely in the light of present hindsight and perspectives long after the victory is, I suggest, quite beside the point. As one who was present and active in the War Department at the time, I believe the action was thoughtfully and carefully taken by authority of the President under what were then wartime conditions. The President was advised by civil and military statesmen of the highest stature, character and experience. Careful examination of the law was made by the Attorney General and later litigation in the highest courts supported the action taken.

I believe, therefore, in the interests of all concerned, the Commission would be well advised to conclude that President Roosevelt's wartime action in connection with the relocation of our Japanese-descended population at the outbreak of our war with Japan was taken and carried out in accordance with the best interests of the country considering the conditions, exigencies and considerations which then faced the nation.

Sincerely,

John J. McCloy

→ 67%

408-253 (930)

JOHN J. McCLOY
ONE CHASE MANHATTAN PLAZA
NEW YORK, N. Y. 10005

November 25, 1981

Dear Senator:

After my recent appearance before the Commission dealing with the Japanese relocation program on the West Coast in 1941, I have some further reflections which I believe bear on the investigation by the Commission. I have tried, so far without success, to obtain a copy of a transcript of my testimony from the Commission so I cannot add any comments to it. I attempted, however, to dictate some notes which embody these reflections, and I take the liberty of enclosing them herein. In certain respects they may be repetitious of the thoughts I gave the Commission, but some may be new.

I suppose my main point is that the action taken after Pearl Harbor was indisputably and, as I believe, reasonably taken by the United States Government as it was then duly constituted.

First, and primarily, the President of the United States and Commander in Chief of the Armed Forces made the decision. In doing so, he was assisted by and consulted with The Secretary of War, Mr. Stimson, The Secretary of the Navy, Mr. Knox, The Attorney General of the United States, Mr. Biddle, and, I believe, the Under Secretary of War, Mr. Patterson, who was particularly fearful of sabotage in the West Coast plants. Yet no responsible member of the government, as far as I can learn, was called by the Commission to defend the government's carefully considered wartime action. I believe this should have been almost the first order of business of the Commission. It was unjust to the then government not to do so. It was only at the very close of the Commission's testimony that Colonel Bendetsen and I, neither of whom made the decision, but each of whom had direct personal knowledge of how it was made and how it was carried out, were called.

Although it is the prerogative of the Commission to conduct the manner of its own investigation, I urge, that it, in fact, was most unfair to the wartime leaders of our government who acted in full accordance with their respon-

sibility for the security of the nation. I do not believe that even the government's brief in the Korematsu case was made a part of the record.

Sincerely yours,

Honorable Edward Brooke
O'Connor & Hannan
1919 Pennsylvania Avenue, N.W.
Suite 1800
Washington, D. C. 20006

408-253 (932)

My reflections following my appearance before the Commission prompt me to repeat, even more emphatically than I did in the course of my testimony, what I consider to be the impropriety and serious injustice of making provision for any added compensation to that already given to those who were removed, in accordance with President Roosevelt's wartime Relocation Order, from certain military sensitive West Coast areas following the disastrous consequences of the December 7, 1941 attack on Pearl Harbor.

To attempt, at any time, to equalize the damages or sufferings caused by war is, at best, a futile and impractical undertaking. By its very character, the damages of war are usually incalculable, and are never capable of even, or equitable, distribution among its victims.

To attempt such a thing now, forty years after the Japanese war was started by the surprise attack on Pearl Harbor, would be not only out of place, but grossly unjust. This is so in view of the fact that:

1. None of the distress, now claimed as a base for added compensation to that already received, can ever be even remotely compared with the suffering of those who lost their lives as a direct result of the Pearl Harbor atrocity. We can readily assume that none of those of our Japanese-descended population, who were evacuated from the West Coast after Pearl Harbor, had anything whatever to do with the initiation of the surprise attack, but neither did any of the Americans who lost their lives as a direct result of it. Those American lives were never adequately compensated for, nor will they ever be; and *

2. A very substantial sum (beyond the costs incurred by the government to effect the Relocation) was appropriated and paid for the purpose of defraying, or at least greatly helping to defray, any damages caused by the Relocation to those involved in it. The sum, judged by its present worth is somewhere between 100 and 150 million dollars. It was set up when witnesses were available, and proofs were freshly at hand to support any claims which were made. The fund was created shortly after the Relocation process had been terminated, and I was chiefly instrumental in initiating the legislation to create it.

*They have no lobby working overtime for them.

If all of the testimony given before this Commission, much of it patently stimulated, initiated and even incited by hopes held out for new and substantial so-called lump sum liquidated damages, to those who were evacuees, or to their relatives, were taken at face value, it could never, as a remote circumstance, be compared to the untold sufferings endured by Americans who were "uprooted" and lost their lives at Pearl Harbor, or later during the war which that attack commenced. The bodies of many of the sailors who died in the attack, still lie entombed in the battleships' hulks, resting on the bottom of Pearl Harbor. The same thing can be said of the suffering caused by the lives lost at Iwo Jima, Tarawa and Okinawa, as well as lives of the Japanese-American members of the 442nd Combat Team, who died in the European theatre.

None of the suffering caused by that loss of life has ever been adequately compensated for, nor will it be.

The fact is that the Relocation process was solicitously carried out by the Army and War Relocation Agency, so as to maintain, as far as war time conditions permitted, the health, well being and education of those caught up by the military necessity produced by the Pearl Harbor debacle. The Relocation was a rational response of President Roosevelt, acting also as the Commander in Chief of our Armed Forces, to the threats against the security of the sensitive military areas of the West Coast, which the almost total and sudden destruction of our main battleship fleet created. The Relocation process was a very difficult and even delicate operation to undertake, but it was made essential by the military necessities of the time, and was carried out fully in accordance with the Order of the President of the United States.

The operation was, in fact, carried out humanely, and with as great consideration as its difficulties and exigencies of the time permitted. That it was to be carried out in such a manner was embodied in the orders given to the Commander General of our Western Defenses, and it should be presumed that such orders were carefully obeyed.

In my testimony I recalled the names of some of the nation's leaders and statesmen, then responsible for the security of the country, who approved and participated in the steps taken to carry out the President's Order. I can add to these names by including Col. Frank Knox, the then Secretary of the Navy, and Robert Patterson, the then Under Secretary of War, who had formerly been a judge of the

Federal Circuit Court of Appeals in the Second District of New York. On at least two occasions the action of the President was tested, and upheld, by The Supreme Court of the United States.

I do not have the means now, as an individual, to attempt to assemble again the evidence which would show how humanely and with what consideration the camps were conducted.

In addition to my own inspection of a number of the camps, I recall that I had the advantage of the favorable reports of the inspections made by the Army of the camps. They were current and should be objective and unbiased, if the usual custom and discipline of the Army inspection system was followed. I have no idea whether they are now available, or whether an attempt was ever made to locate them. After forty years they may no longer exist, but if found they could shed contemporary light on the conditions and conduct of the camps.

In addition to the visits I made to the camps, I communicated with a number of Japanese-American leaders, both in the camps and elsewhere. I retain now a sense of their good will and cooperation. I have largely lost track of many of these individuals now, but I find among the few I have talked to, a reluctance to come forward with testimony favorable to the government's conduct of the Relocation, due to what appears to be the pressures exerted from the lobbying groups, who, to put it mildly, do not welcome such testimony. I cannot escape the conclusion that, if those groups were half as assiduous in gathering evidence in favor of the government's treatment of the wartime evacuees, as they have been in encouraging evidence derogatory of it, the record would be now far more objective than it appears to be.

I cannot forget myself the quite unrestrained hissing which took place during my examination whenever I spoke favorably of any government action.

When I was pressed hard by Mr. Justice Goldberg, during my examination, to say whether, under all the circumstances, I believed that President Roosevelt's action was now justified, I had no hestiation whatever in saying that it was amply justified at the time. This, I submit, is when it must be judged. Neither Mr. Roosevelt, nor any of the others who participated in the decision, knew then that one of the most decisive battles of history was to be fought

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408-253 (935)

later at a place called Midway in the Pacific, or that it was to be won by such a narrow margin. Suppose Midway had been lost with another one of our carriers sunk and most of our pilots dead. What would have been the consequences to our security, or the safety of our Japanese-descended population still concentrated around our sensitive installations on the West Coast? It was, of course, the duty of the President, to defend the country against all the hazards to its security he could reasonably foresee. But, one cannot fairly hold him, or his memory, now to a nice calculation shortly after the destruction of our fleet, of the prospects of a victory yet to take place.

I strongly maintain that the loss of the "Yorktown" and most of our pilots at Midway, together with the narrow margin of the victory, most weightily justifies the action which the President, with the concurrence of his advisors, took shortly after the Pearl Harbor attack.

I have heard the suggestion made that even though the exigencies of war may have reasonably justified the early evacuation of the Japanese population from the sensitive areas of the West Coast after the surprise attack, the termination of the Relocation process was unduly delayed after it became clear that the military necessity, on which it was based, disappeared, and that this, in itself, justifies some added redress to those evacuated.

In the first place the miracle victory of Midway, did not win the war. Many bloody battles had yet to be fought and many lives had yet to be lost before Japan surrendered. Midway did greatly relieve our anxiety, but emotions still ran very high along the coast, and, indeed, throughout the nation. How can this Commission, or an even much more militarily knowledgeable one, now determine, so long after Midway, just when the military considerations no longer justified the President's action.

In the second place, it would not have been a simple matter to have set the process in reverse. It was a large logistic problem, and objections to any returns of the evacuees or their relocations had to be overcome. The fact is, the process was duly terminated, and the record of this Commission indicates that the President was alerted by the War Department, while the war was still going on, to the need for the consideration of the termination of his earlier Order due to the lack of any further military necessity.

408-253 (936)

The general welfare of the Japanese-American population on the West Coast, and its relationship with the people of the United States throughout the nation is now very good. The fundamental loyalty of that population has been tested and is now fully accepted. I believe it was the record of the 442nd Combat Team,* as well as the considerate manner in which the difficult Relocation process was carried out following the Pearl Harbor attack, which contributed much to the healthy attitude now prevailing between the people of the United States, and its Japanese-descended citizens. There is no doubt in my mind that the manner in which the difficult operation, provoked directly by the Pearl Harbor attack, was carried out, can properly be considered a real credit to this country and to President Roosevelt and the statesmen and leaders who were associated with him in the protection of the security of the country at the time. There is, I submit, nothing whatever for which the country should atone.

I do not wish to reflect on the impartiality of this Commission. How it conducts its investigation is its prerogative. I wish only to be candid when I respectfully submit that a far more reliable perspective of the whole matter of our wartime Japanese Relocation process on the West Coast would have been obtained by the Commission, if someone, who had the personal knowledge of how the Relocation decision was taken by the President of the United States, and how it had been carried out, had first been called by the Commission to testify as to those conditions and circumstances, as a sort of government witness of the actual events. As it was, any such testimony seems largely to have been withheld until the very close of the hearings, and after a full head of steam had been generated by a persistent lobby acting over a number of years, and seeking a windfall of "liquidated" damages some forty years after the event. The sum of literally billions of dollars of U.S. taxpayers' money seems to have been contemplated, if press reports are reliable, for the added compensation sought. Yet, so far as I know, no one was called by the Commission to protect the interests of the American taxpayers, whose burdensome present taxes, the government of the United States is so fully committed to reduce. There were some, to be sure, severe inconveniences and even in some cases, what might be called hardships were endured by those taken up in the Relocation process. Those inconveniences and hardships were, however, in truth, of a really minor character when compared to the profound suffering brought about by the historical attack on Pearl Harbor and the commencement of the Japanese war which it signalled.

*The formation of which I initiated.

That suffering was brought about by the loss of many thousands of American lives for which no adequate compensation was ever made.

To go further with any such plan as seems now to be envisaged by some because the President of the United States, with the concurrence and advice of his leaders, sought to take steps reasonably designed to react to an imminent threat to the nations security, would be unjust to the American dead whose lives were lost in the Japanese war. It would also amount, in my sober judgment, to an incongruity.

I heard it said at the hearings that the world had changed and new concepts of civil rights and a sense of justice had overtaken us since the close of the Japanese war. It was said that a new generation of thinking had taken over, with much new emphasis on civil rights. I believe that present generations should also reflect, as I think many members of them do, on the fact that when democracy was set upon from the Atlantic to the Pacific by its enemies in the Second World War, it was successfully defended by this nation, at the cost of many lives and much treasure. By such defense, civil rights were preserved rather than impaired. It must be remembered that the statesmen and leaders of the U.S. at the time had their hands full, and if it looks now to new generations as if we were never really in danger, it is <u>they</u> who need new perspectives when it comes to appraising the relative inequities of wartime sacrifices and hardships, and the "bloody dilemmas" as Winston Churchill frequently put it, which war leaders had, from time to time, to face.

I urge the Commission to be most chary about making recommendations about how we should go about guarding our security or survival in the future. With all respect, this Commission cannot possibly know what may be ahead in terms of ensuring our security. Movements of people, determination of states of loyalty and other security measures must be left to future generations to formulate as new demands are presented. We cannot prescribe for such things in the future. Nuclear war and the threat of it could radically change many of our concepts with respect to security and survival. Such recommendations would probably be futile anyway, as future guardians would probably disregard them if they felt the fate of the nation was at stake.

408-253 (938)

The suggestion has also been made that the decisions taken at the time following the Pearl Harbor attack regarding the Relocation might have been motivated by "racist" considerations. I sense that there was, at some time, an attempt to suggest a certain verisimilitude of the Relocation centers to the conditions which surrounded the Nazi concentration camps. I am very glad to hear from counsel to the Commission that no such thinking is now remotely in the mind of the Commission. I believe that it ought also to be recognized that there was not a drop of racist blood in the bodies of President Roosevelt or of Secretary Stimson, or, I dare say, any of Mr. Roosevelt's advisors who participated in his decisions.

I cannot avoid feeling that there is another element which tends, I believe, to stimulate the thinking of some who now feel that we should atone in some degree for President Roosevelt's wartime order. I am sure that there are some wholly sincere people who take this attitude, but there are others like the medieval self-flagellants who seem to derive a real form of satisfaction by attempting to make this nation appear in a bad light on both the domestic and international scene. The attitude is unworthy of the spirit in which the Second World War was fought by this country, at a critical stage in history, and by the enlightened manner in which our former enemies and friends alike were treated during the reconstruction, e.g. the Marshall Plan and the opening of our markets, following the close of the war. Mr. Churchill, on several occasions testified to this spirit in a most eloquent fashion. I do not have the quotations at hand, but they can be readily found.

I suggest strongly to the Commission and to the Congress, as does Senator S. I. Hayakawa that the common interests of the country and our Japanese-descended population itself, would be far better served by dropping all thought of any further compensation to the relocatees who were moved after Pearl Harbor or the next of kin or for any recommendation (God forbid) of a national apology for President Roosevelt's war action.

November 23, 1981

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~~CONFIDENTIAL~~

HEADQUARTERS WESTERN DEFENSE COMMAND
OFFICE OF THE COMMANDING GENERAL
PRESIDIO OF SAN FRANCISCO, CALIFORNIA

25 October 1944

The Honorable John J. McCloy,
Assistant Secretary of War,
War Department,
Washington, D. C.

Dear Mr. McCloy:

The situation with reference to the Japanese-American exclusion has reached a point where there appear to be several matters which can be best solved by personal contact.

I know that you are thoroughly informed of our situation and of the fact that a decision must be made sometime in the very near future concerning the abandonment of mass exclusion. It is my opinion that this abandonment will be forced by legal action if a voluntarily decision has not been made before legal action forces one. Although I consider it highly improbable, it is possible that the action of the Supreme Court in the Endo case might force such a decision.

Much of the activity of the Western Defense Command during the past few months has been devoted to getting ready for the day when we will shift from mass exclusion to individual exclusion. I have set up a system to handle the situation. While by far the greater part of the preparations for such a contingency are under my control, there are several things now pending which must be decided in Washington. Among these may be mentioned the following:

1. The approval of the general plan to drop mass exclusion which I recommended in my letter of August 8th.

2. Arrangements with other agencies all located in Washington so that such a change may be coordinated with those agencies and facilitated by their understanding of the problem and their cooperation. The agencies concerned include the War Department General Staff, the Provost Marshal General, WRA, and to a certain extent, ONI and the Department of Justice.

3. Perhaps the most important single set of records on the Japanese-Americans is now in the Japanese-American section of the Provost Marshal General's Office in Washington. The transfer of these records to San Francisco was urged in my letter of August 8th. I submitted another letter to the War Department on October 12th asking for the immediate transfer of these records. Yesterday I received a communication from the War Department saying that the question of the transfer of these records is now being

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studied. We have received outstandingly-fine cooperation from The Provost Marshal General and his assistants at every stage of the handling of the Japanese situation. The Provost Marshal General has recently supplied us with lists extracted from his records which are of primary value in the determination of potentially dangerous individuals. Every contact with the Provost Marshal General's Office has met with complete agreement as to the necessity for and desirability of transferring the records of their Japanese-American section to San Francisco. There appears to be some agency which has not been willing to concur in this transfer. I am sure that whatever objections may be raised can in this situation be completely cleared up by personal contact and mutual understanding. I hope that the study now being made on this question by the War Department will not be delayed as the records of the Provost Marshal General's Office form an important part in the plan of handling the Japanese American situation.

4. I believe that it is very desirable that agencies in Washington be brought up to date on the situation in this matter so that our efforts may be better understood and more satisfactorily coordinated. The recent visit of Mr. Wecksler of the Department of Justice, of a small group of officers of the Provost Marshal General's Office and of Mr. Myer have all served to clear up difficulties which some had considered almost insurmountable.

I am sure that you realize that the decision itself is only a part of the entire problem and that we must reduce to a minimum any delay between the date of the decision and the time that it can be put into execution. The collection of essential data, the establishment of a system of handling that data, and the procurement of personnel can be done before the date of the decision.

While I do not wish to press unduly or impose on the good people in Washington, my own part of the job can be greatly facilitated by personal conferences on the type matters indicated in the early part of this letter. I contemplate bringing General Wilbur with me for this trip.

Because I realize how very busy you are, I wish to get your reaction to the desirability of a personal-contact visit to Washington in the very near future. I have made commitments which will require that I remain on the West Coast until October 30th, but any time after that would be convenient to me. I will appreciate it very much if you will indicate as to whether or not you concur in the desirability of my coming to Washington with General Wilbur. If you do concur, will you please indicate an approximate date which you consider appropriate for such a visit.

With cordial personal regards.

Sincerely,

C. H. Bonesteel

C. H. BONESTEEL,
Major General, U.S.A.,
Commanding.

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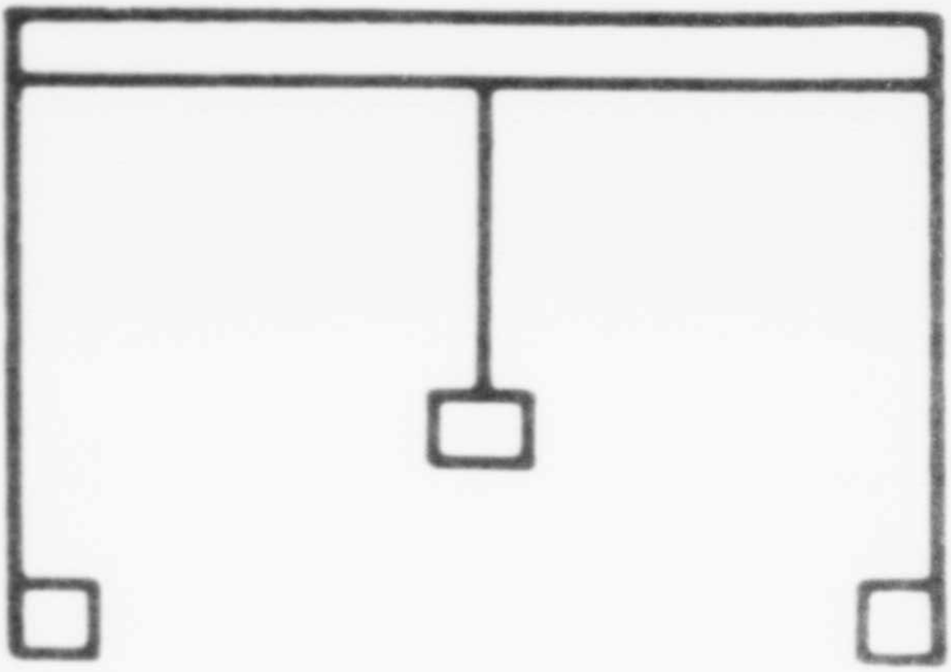

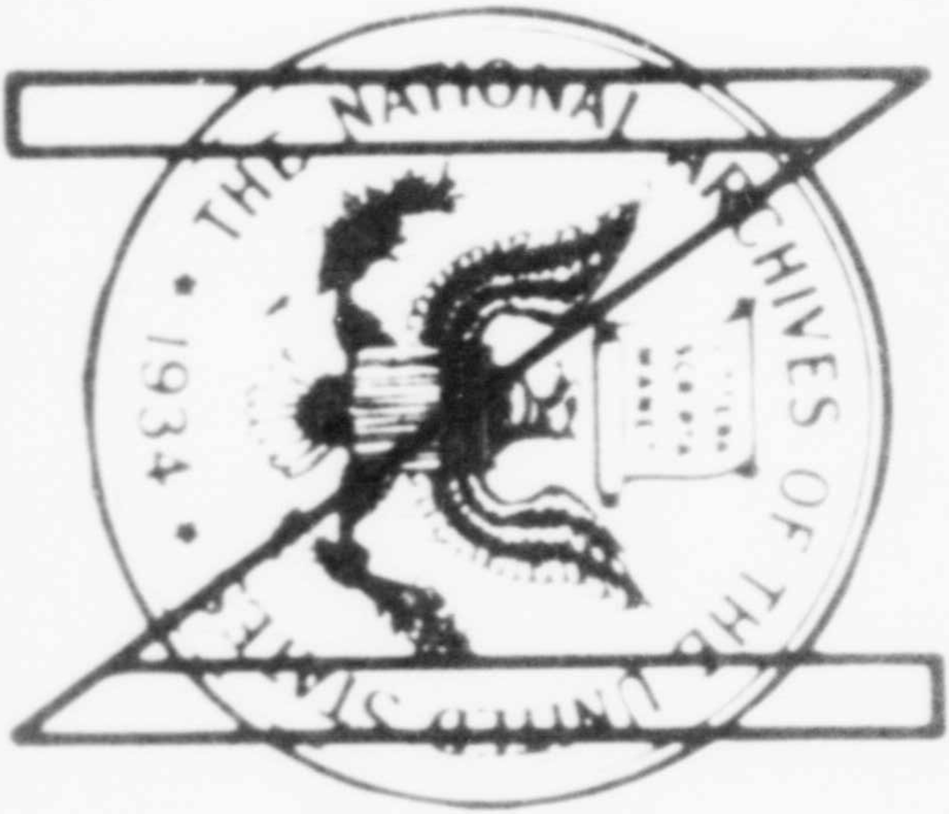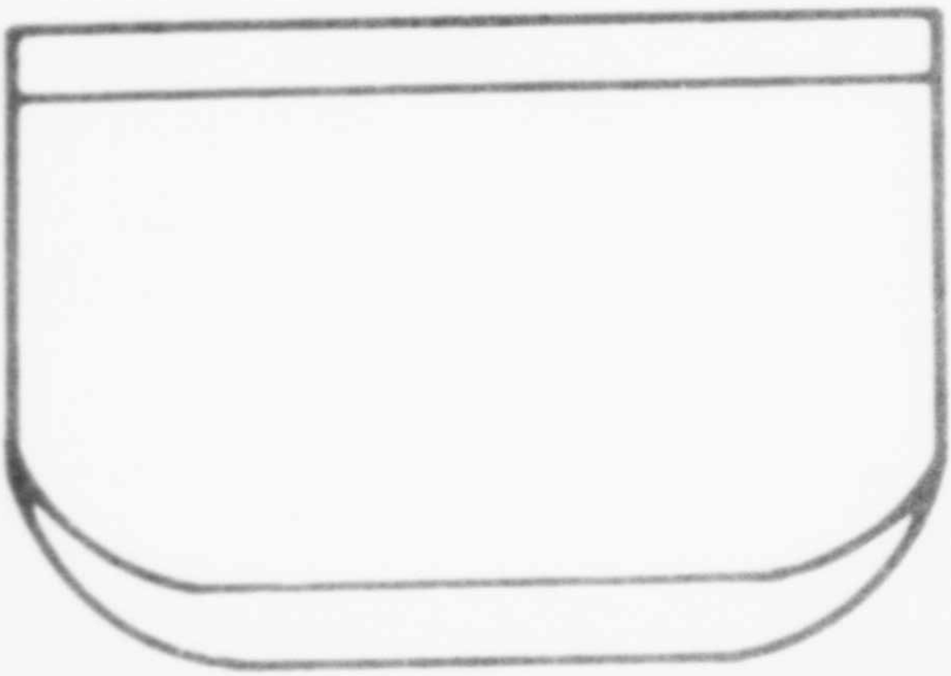
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